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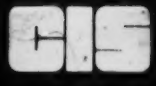

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S. HRG. 100–124

# RESTRICTION ON THE U.S. OPERATION OF FOREIGN-BUILT FISH PROCESSING VESSELS

## HEARING

BEFORE THE

NATIONAL OCEAN POLICY STUDY

OF THE

## COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

## UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

## S. 377

TO IMPOSE A MORATORIUM ON THE ABILITY OF FOREIGN-BUILT VESSELS TO QUALIFY FOR CERTAIN BENEFITS UNDER THE MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT, AND FOR OTHER PURPOSES

APRIL 28, 1987

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# RESTRICTION ON THE U.S. OPERATION OF FOREIGN-BUILT FISH PROCESSING VESSELS

TUESDAY, APRIL 28, 1987

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
NATIONAL OCEAN POLICY STUDY,
*Washington, DC.*

The committee met at 2:23 p.m., in room 232–A, Russell Senate Office Building, Hon. John B. Breaux presiding.

Staff members assigned to this hearing: Jim Drewry, staff counsel and Brad Gilman, minority professional staff member.

## OPENING STATEMENT BY SENATOR BREAUX

Senator BREAUX. This afternoon the National Ocean Policy Study will receive testimony on S. 377, a bill that addresses the fundamental and clearly stated objectives of Congress to achieve full utilization of U.S. fishery resources by U.S. harvesters and by U.S. processors.

In 1979, not long after the enactment of the Fishery Conservation and Management Act, many of you will recall that we were confronted with a situation in which foreign fishing vessels indicated an interest in documenting under the laws of the United States, and thus qualifying for the first priority access to the U.S. fishery resources accorded to U.S. fishermen by that act.

At that time substantial growth and investment had already occurred in the U.S. harvesting sector in response to protection promised by the FCMA. Congress was quick to respond to the situation with an amendment that protected this growth in investment by requiring the U.S. flag vessels to be constructed in the United States. Because this growth in investment was not occurring in the U.S. processing sector, no similar restrictions were placed on foreign processing vessels. This was done to assure adequate processing capacity, whether United States or foreign, for U.S. harvested fish.

Therefore, under current law foreign flag processing vessels constructed overseas can reflag under U.S. documentation law and, thus, qualify for the first priority access to process U.S. fishery resources also accorded to U.S. processors by the FCMA.

Today we are confronted with a very analogous situation to that which occurred with the U.S. harvesting sector in 1979. It is my understanding that very substantial U.S. growth in investment, as much as $200 to $250 million, has now occurred in displacing foreign fish processing capacity.

Furthermore, all forecasts are that if this trend continues uninterrupted, the United States processing industry can realistically be expected to have full capacity to process U.S. fishery resources by the early 1990's. Again, as in 1979, foreign flag, foreign built vessels indicate a desire to reflag under U.S. law and capture this time the processing industry.

In the interest of Americanization of the U.S. fishing industry, S. 377 would protect these investments and U.S. processing vessels and insure that future expansion of the U.S. processing fleet is on U.S. built vessels and is in U.S. hands.

The bill provides needed business for U.S. shipyards and creates new fishing jobs by increasing the many requirements for U.S. flag processing vessels from 75 percent to 100 percent. As I have indicated, this is nearly an identical situation to that which occurred with respect to the harvesting vessels in the late 1970's with one very important exception; today there are some 130 U.S. harvesting vessels that currently depend on joint venture foreign processing vessels for their market. They, too, have made substantial investment, on the order of $200 million, in the spirit of the FCMA.

Before Congress makes any decision to move forward with this legislation I believe it is important that we consider the objectives of Americanization in terms of the options that may or may not face this rather substantial American harvesting fleet.

Of course Americanization should not be denied strictly to protect ongoing profitable joint ventures that were only intended to be an interim phase in our development. At the same time, if possible, Americanization should not be achieved to the complete exclusion and detriment of other legitimate U.S. fishing interests.

My hope is that we will explore this and other important considerations as we evaluate the bill in terms of the objectives of our U.S. fisheries law.

I would ask unanimous consent that any other members of the committee that would like to have a statement entered into the record at this point will be allowed to do so.

I would like to welcome up our first panel which consists of NOAA and the Coast Guard, Mr. Jim Douglas, Acting Deputy Assistant Administrator for Fisheries; and Capt. William Ecker, Deputy Chief, Office of Marine Safety, Security, and Environment on behalf of the Coast Guard.

Senator Stevens is here. I don't know if he has an opening statment. Senator, do you?

## OPENING STATEMENT BY SENATOR STEVENS

Senator STEVENS. Just a short one. I am sorry to delay. I am delighted, Mr. Chairman, that you would take the time to schedule this hearing. We are on a very important subject.

Last October I received a letter urging that I ask Congress to take action to prevent reflagging. That letter was signed by representatives of the U.S. Joint Venture Fleet, onshore processors, and the offshore factor trawler fleet. They stated that failure to act would nullify the efforts made in recent years to complete the domestic utilization of our fisheries resources, and I would ask that you print the letter in the record. It did initiate this whole concept.

Senator BREAUX. Without objection.

Senator STEVENS. I did review the issue and decided there was sufficient basis for legislative action. Widespread reflagging by foreign companies would impose a competitive disadvantage on legitimate domestic operations which have made substantial investments in U.S. built vessels and onshore processing facilities.

Unless something was done, I concluded, foreign companies could have the ability to claim domestic preference embodied in the Magnuson Fishery Conservation and Management Act. There is also the potential for reflagging to create a competitive disadvantage within the domestic sector itself.

It has come to my attention that the U.S. Joint Venture Fleet may be having second thoughts about the propriety of reflagging. In my opinion, a split within the industry could well lead to a polarization on this issue in Congress. I think it is important that all involved keep an open mind on potential compromises, particularly during these hearings, so that we can ask the committee to act quickly to clarify this law and create the certainty that is necessary to assure that the investment decisions will be made promptly that will enable us to fully utilize these fisheries resources for our domestic fleets.

Again, I thank you very much. I think we should state that there is a series of votes going on over there. I suspect we are going to be interrupted, John, from time to time.

[The bill follows:]

100TH CONGRESS
1ST SESSION

# S. 377

To impose a moratorium on the ability of foreign-built vessels to qualify for certain benefits under the Magnuson Fishery Conservation and Management Act, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JANUARY 22, 1987

Mr. STEVENS (for himself and Mr. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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# A BILL

To impose a moratorium on the ability of foreign-built vessels to qualify for certain benefits under the Magnuson Fishery Conservation and Management Act, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding any other provision of law, it shall be unlawful for any foreign-built vessel documented under the laws of the United States after January 1, 1987, to engage in the processing of fish for commercial use or consumption.

SEC. 2. Section 8103(b) of title 46, United States Code, is amended—

(1) by striking "or yacht" and inserting in lieu thereof ", yacht, or foreign-built fish processing vessel"; and

(2) by adding immediately after the first sentence the following: "All of the seamen employed on a fish processing vessel documented under the laws of the United States shall be citizens of the United States.".

SEC. 3. Section 4311(a) of the Revised Statutes of the United States (46 App. U.S.C. 251(a)) is amended by adding at the end the following: "The Secretary of Commerce may issue such regulations as the Secretary considers necessary to obtain information on the transportation of fish products by vessels of the United States from foreign fish processing vessels to points in the United States. The Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation, and to the House Committee on Merchant Marine and Fisheries—

"(1) setting forth, within six months of the date of enactment of this Act—

"(A) an evaluation of the potential impact of such transportation of fish products on the development of the domestic United States fishing industry;

"(B) recommendations, if any, for legislation or other action to regulate such transportation of

fish products in a manner most beneficial to the future development of the domestic United States fishing industry; and

"(2) at such other times as the Secretary of Commerce determines that legislation is needed to assure the full development of the domestic United States fishing industry.".

SEC. 4. The provisions of this Act shall be effective until June 1, 1997.

Senator BREAUX. That is kind of par for the course. I will try and get through our testimony. We would ask the folks that have prepared statements to please submit them and summarize your testimony so that we make sure we get everybody on the record and we can get to some questions.

Mr. Douglas, do you want to go ahead on behalf of NOAA to present your testimony.

**STATEMENTS OF JAMES E. DOUGLAS, JR., ACTING DEPUTY ASSISTANT ADMINISTRATOR FOR FISHERIES, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION; JAY S. JOHNSON, ASSISTANT GENERAL COUNSEL; CAPT. WILLIAM J. ECKER, DEPUTY CHIEF, OFFICE OF MARINE SAFETY, SECURITY, AND ENVIRONMENT, U.S. COAST GUARD**

Mr. DOUGLAS. Thank you. I am pleased to testify today on behalf of the Department of Commerce on S. 377, a bill that would address a situation in our fisheries laws that has become a source of concern for the U.S. fishing industry, as Senator Stevens said, known as "reflagging."

Because of the legal complexity of the issue I am accompanied today by Mr. Jay Johnson who is NOAA's Assistant General Counsel for Fisheries, in case you have questions concerning that.

The industry's concern arises from the interaction of the Magnuson Fishery Conservation and Management Act and the Vessel Documentation Act. That interaction has left what is arguably a loophole that could frustrate our efforts to realize the full potential of the U.S. economic interest in our exclusive economic zone.

Under the present law, vessels of the United States are granted a preference to harvest and process fish within our 200 mile exclusive economic zone. The Magnuson Act speaks of a vessel of the United States, but relies on the Vessel Documentation Act, and the Federal Boating Safety Act to define such a vessel.

As such, we find that fish harvesting vessels must be of U.S. construction, but fish tendering and fish processing vessels do not have that requirement. A foreign built vessel need only be documented under the Vessel Documentation Act, and it would be eligible to engage in fish processing within our EEZ.

This action would also give that vessel the same preferential right to receive the fish caught by U.S. harvesting vessels as is granted U.S. built processing vessels, and for that matter U.S. shoreside processing plants.

With the phasing out of direct foreign fishing, and with increasing competition between U.S. shoreside processors and joint venture processors, the temptation to reflag foreign processing vessels has never been greater.

The Department of Commerce favors the intent of the bill before us today, but we suggest there may be a better way of accomplishing that intent. We favor changing the Magnuson Act rather than the Vessel Documentation Act in the following ways.

We would favor requiring that all vessels that propose to engage in fishing as defined by the Magnuson Act, which includes processing and tendering, be U.S. built. We believe that this action would put harvesting vessels, processing and tender vessels on an even basis. This would also eliminate competition from low cost, fully amortized foreign built vessels, and protect the enormous investment in U.S. built processor and catcher processor vessels. It would also send a signal that would encourage full Americanization of our processing sector.

We favor requiring that all vessels that propose to engage in fishing as defined by the Magnuson Act be required to use predominately U.S. citizen labor. In that regard, we believe that a 75-percent requirement would be quite adequate. Our suggestion would impose this requirement on all vessels, harvesters, processors, and tenders. Vessels enjoying the preference accorded by the Magnuson Act ought to contribute to the U.S. economy, which would include employing U.S. labor.

We favor making these changes in the Magnuson Act rather than the Vessel Documentation Act since if these changes were made in the latter act, they would apply wherever U.S. flag fishing vessels might roam. This would mean that the U.S. distant water tuna fleet, which fishes predominently in international or foreign waters, and the U.S. distant water shrimpers who engage in shrimping in the Caribbean and off Central and South America would be involved. In each of these cases, foreign labor is often desirable, or may actually be required by the coastal nation.

Mr. Chairman, that concludes a synopsis of my testimony. I thank you for the opportunity, and Mr. Johnson and I will be standing by to answer any questions that you might have.

[The statement follows:]

STATEMENT OF JAMES E. DOUGLAS, JR., ACTING DEPUTY ASSISTANT ADMINISTRATOR FOR FISHERIES, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

Mr. Chairman and Members of the Committee: My name is James E. Douglas, Jr. I am the Acting Deputy Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration (NOAA). I am pleased to testify today on behalf of the Department of Commerce on S. 377, a bill introduced by Senators Stevens and Murkowski, that would address what we consider a technical anomaly in our fisheries laws that has become a source of concern for the United States' fishing industry, commonly known as the "reflagging issue." Because of the legal complexity of this issue, I am accompanied today by Jay S. Johnson, NOAA's Assistant General Counsel for Fisheries.

The industry's concern arises from the interaction of the Magnuson Fishery Conservation and Management Act and the Vessel Documentation Act. That interaction has left what is arguably a loophole that could frustrate our efforts to fully develop our fishing industry in line with the 1976 enactment of the Magnuson Act and the President's 1983 proclamation of the U.S. Exclusive Economic Zone (EEZ).

Under the Magnuson Fishery Conservation and Management Act, 16 U.S.C. §§ 1801 *et seq.*, "vessels of the United States" are accorded an explicit preference, recognized by international law, to harvest and process fish within our EEZ and within the boundaries of any State. Vessels of the United States enjoy a preferential right to harvest and process these domestic resources and foreign vessels are allowed to harvest or process only the fish that will not be harvested or processed by U.S. interests.

Each of the nations that fish in our waters—Japan, Korea, the European Economic Community, the Soviet Union, and many others—have acknowledged this preference and have implemented virtually identical preferences in their own waters. Moreover, many of these nations have signed the Law of the Sea treaty which also recognizes the rights of the domestic industry of coastal nations to first use of fishery resources within their waters. The fishery provisions of the Law of the Sea treaty, including preferential access for domestic industry, are part of the body of customary international law.

Under the Magnuson Act, the definition of "vessel of the United States" is the critical term for distinguishing between domestic vessels that are entitled to fishing and fish processing preferences in the EEZ and foreign vessels that are not. Section 3(27) of the Act, 16 U.S.C. § 1803(27), defines the term "vessel of the United States" as—

"(A) any vessel documented under the laws of the United States;

"(B) any vessel numbered in accordance with the Federal Boat Safety Act of 1971 and measuring less than 5 net tons; or

"(C) any vessel numbered in accordance with the Federal Boat Safety Act of 1971 and used exclusively for pleasure."

As a result, all "vessels of the United States" larger than 5 net tons must be U.S.-documented unless they are used exclusively for pleasure. Fishing (which includes fish tendering and fish processing) conducted by vessels which are not "vessels of the United States" would be foreign fishing under the Magnuson Act and entitled to no preference.

The Vessel Documentation Act, 46 U.S.C. §§ 12101-12122, contains additional requirements, the most critical being ownership by a U.S. citizen, either a natural person or a legal entity such as a partnership or corporation. While a vessel owned by a corporation may be licensed to operate in the fisheries of the United States, the stock in that corporation may be held entirely by foreign nationals as long as the requisite corporate officers are U.S. citizens.

To operate in the fisheries of the United States, a vessel must have been built in the United States. However, the definition of "fisheries of the United States" under the Vessel Documentation Act as interpreted by the Coast Guard is narrower than the statutory definition of "fishing" in the Magnuson Act in that it does not include fish tendering or fish processing. The anomaly is that the Magnuson Act includes fish tendering and fish processing, along with fish harvesting as activities constituting fishing.

Eleven years after the enactment of the Magnuson Act, the U.S. fishing industry has made impressive strides towards full Americanization of our EEZ resources. Foreign harvests of our fish, which amounted to 2 million metric tons annually at their peak, are down sharply and will soon be eliminated completely by the rapid growth in our harvesting sector. In 1986, U.S. fishermen took 80 percent of all fish resources in the EEZ. Of those species which are harvested directly by foreign ves-

sels or purchased by foreign floating processors in joint venture contracts. U.S. fishermen took 72 percent and foreign boats harvested 28 percent. These species, which are nontraditional and often underutilized in the U.S. market, are still processed mainly by foreign firms. In 1986, for example, although U.S. firms took 72 percent of these nontraditional EEZ resources, only 11 percent was processed domestically and 61 percent by foreign joint venture processors. While much of our increased harvest is still being delivered over-the-side at sea in joint ventures with foreign processing vessels, there are signs that joint ventures will decline soon as new shoreside construction and a new fleet of domestic catcher-processors comes on line. We expect this growth will encourage investment in fish harvesting, tendering, and processing vessels by both foreign and domestic entrepreneurs. We welcome that investment.

While these are good, positive developments, we believe that the anomaly in the definitional provisions of the Magnuson Act should be eliminated before the phase-out of joint ventures and the full shift to domestic processing is completed. As I have indicated, processing vessels (and some fish tenders) are not now subject to the U.S. construction requirement that exists for fishing vessels. Nor are they fully subject to U.S.-citizen manning requirements. If in the Congress' view, this represents an anomaly that requires a technical correction (as we believe it does), then we generally support S. 377, subject to the following comments.

S. 377 would amend section 8103(b) of Title 46, United States Code to impose U.S. construction requirements on fish processing vessels (such as already exist for fishing vessels), and to require that all of the seamen aboard such vessels be U.S. citizens.

American fish processing vessels that compete with American catcher-processors and American shoreside processing facilities should be required to live by the same rules when they participate in the fisheries of the United States; they should receive the Act's domestic preference only if they are U.S.-built and crewed by American citizens.

Under present law, passed long before the proclamation of the EEZ, some U.S. citizen manning requirements apply only upon a vessel's departure from a port of the United States. Given the proximity of Canada and Japan to the most valuable fishing grounds in our EEZ, there would be a temptation for vessel owners to employ foreign labor in our domestic fishing industry. We should act now before such a practice becomes established. We are concerned, however, that the use of the term "seamen" in S. 377 might allow foreign labor to be employed in the processing plants aboard such ships. We believe that all American fishing vessels, fish tenders, and fish processing vessels operating in our waters should employ substantial numbers of Americans as, of course, is already the case with shoreside processing facilities. However, because there may be legitimate need for foreign technicians aboard some of our processing and catcher-processor vessels, we believe a better requirement would be 75% of the entire manning complement instead of 100% of the seamen should be U.S. citizens, nationals, or legally domiciled aliens.

The President, in declaring the EEZ, placed its resources within our domestic economy. It makes sense that U.S. citizens or nationals be employed aboard U.S. vessels while they are operating in the EEZ and benefiting from the Magnuson Act's domestic preference. That concern does not apply to vessels operating beyond the EEZ in international waters or in the exclusive economic zones of other nations. We would therefore prefer an amendment to the Magnuson Act over an amendment to Title 46, to avoid adverse affects on U.S. fishing vessels that operate far beyond our EEZ.

Section 3 of S. 377, would authorize the Secretary of Commerce to issue regulations concerning U.S. vessels transporting fish from foreign processing vessels to points in the United States. We believe that the authority already exists and that this provision, as well as the statutory requirement for a report to Congresss, are therefore not needed.

Finally, we would like to bring to your attention that the Federal Boat Safety Act referenced in the Magnuson Act's definition of "vessel of the United States" has been replaced by Chapter 123 of Title 46, United States Code. There is a potential problem in applying the current definition to unpowered pleasure craft that are not required to be either documented or numbered. We would be pleased to provide a draft technical amendment that would bring the Magnuson Act definition up to date and avoid some unintended problems.

Thank you for your patience. Mr. Johnson and I will be pleased to answer any questions.

Senator BREAUX. Captain Ecker, I understand you are here just for purpose of answering questions?

Captain ECKER. Yes, sir, Mr. Chairman.

Senator BREAUX. Do your have any thoughts you would like to express before we ask questions?

Captain ECKER. No, sir. I would just as soon proceed with the questions.

Senator BREAUX. Let me start by asking you the first question. Is it easier from your standpont to enforce this if it is an amendment to the documentation laws versus an amendment to the FCMA?

Captain ECKER. I don't think it would make that much difference either way, Mr. Chairman. It depends upon what provisions are implemented relative to identifying the vessels which are reflagged prior to the date of implementation of this Act and those that were put into service after that.

With that kind of a mechanism the boarding and identification process would be greatly facilitated.

Senator BREAUX. So from the Coast Guard's standpoint there is really no difference, from a Coast Guard enforcement standpoint, between whether the law is an amendment to either one of the two Acts?

Captain ECKER. From an enforcement point of view, no, sir.

Senator BREAUX. How about from an emphasis standpoint, anything?

Captain ECKER. I share some of the concerns that were expressed in the testimony of NOAA relative to the impact of activity in this area in terms of other fisheries. I would lean toward the direction presented in the previous testimony.

Senator BREAUX. Mr. Douglas, with regard to a point that I raised in the opening statement with regard to current harvesters operating in that area, some 130 vessels that are operating in that area, that sell to the Joint Venturers which contain the foreign flag vessels of course, some would say by requiring that the processing vessels be U.S. built vessels, these joint ventures would be disrupted. They are not going to have a place to sell our product. What is the concern of NOAA with regard to that, Mr. Douglas?

Mr. DOUGLAS. Mr. Chairman, if the joint venture processing preference where eliminated, then it would be true that there would have to be U.S. processing vessels, or U.S. vessels receiving any fish that would be sold over the side. As long as there is a joint venture processing allocation, I think these foreign processors could probably continue to come in.

Senator BREAUX. I know that. That is an obvious statement back to me. Where are these fishermen going to sell the fish is the real point from a policy standpoint. They will tell this committee, in all likelihood, if you remove the foreign processing vessels immediately, where are they going to sell the fish? My question, is: Is there capacity out there? Are processing vessels on line? Is there shoreside processing capacity, Where are they going to sell the fish?

Mr. DOUGLAS. That is a market question. I understand. I think the very best answer that you are going to get from that is going to be from the folks that follow us, the industry, who can tell you the plans——

Senator BREAUX. I know they are going to have some thoughts on it, but you are the person in charge of policing the fisheries management and conservation zone. You are making the recommendation that we do that. I happen to agree with that recommendation, but back it up with some reason for insuring that we are not doing something that is going to harm the harvesting sector of the U.S. industry.

Mr. DOUGLAS. Let my come back to you for the record after we have studied that some more.

Senator BREAUX. You can't make the first statement without having thought about the second question I'm asking you. How can you recommend that we adopt this bill, kick out foreign processors without having thought as to where the harvesters are going to sell the fish? That is a simple question.

Mr. DOUGLAS. The answer is that I don't think this kicks out the foreign processors immediately. It's a matter of whether there is still a JVP as we call it, Joint Venture Processor allocation in the scheme of that particular fishery.

Senator BREAUX. We say that a processor has to be a U.S. built vessel in this legislation. Isn't that what the legislation says?

Mr. DOUGLAS. Let me ask Mr. Johnson to address that.

Mr. JOHNSON. Senator Breaux, this legislation will not do anything to restrict the foreign flag joint venture processors beyond that which exists in the present law.

Senator BREAUX. That is the point. It takes away his preference.

Mr. JOHNSON. No, sir. The reflagging issue deals with a foreign flag vessel, a processing vessel that at the present time, because it is under foreign flag, has no preference. As soon as domestic processors require the fish, there will not be joint ventures. Until the domestic processors can fully utilize the fish there will still be joint ventures using foreign flag processing vessels.

In fact, this bill will probably tend to prolong the true foreign flag processing operations because there will be some additional costs involved in setting up a true American flag processing operation.

Senator BREAUX. It has to answer for the harvesters who have some concerns about this.

Mr. JOHNSON. I am certain they are concerned about it, but that concerned was addressed by Congress in 1978 when they put the joint venture provisions into the Act in the first place. It's always been clear, absent some change in the law, that eventually these foreign flag processing ships would have to leave our waters.

Senator BREAUX. From a policy standpoint from NOAA, you can assure as best you can in this business that the harvesters will continue to have a processor that would be there, it would be available to purchase the fish that they catch?

Mr. DOUGLAS. That is the process within the council, Senator, that establishes the various specifications on a fishery, how much is caught and how much is available for what we call the DAH, which is Domestic Annual Harvest, the DAP for the processors, then the JVP portion. So maintaining a market I think would be the responsibility of the council and then ultimately NOAA as we approve that in that scheme of things.

We are only saying as this is phased out, as the direct foreign presence today is phased out, it would not be replaced—these bills would not replace it with foreign flagged, or reflagged vessels. It would have to be replaced with U.S. built flagged vessels.

Senator BREAUX. Senator Stevens.

Senator STEVENS. As I understand it, you are trying to accomplish the same objective by amending the Magnuson Act rather than using the process that we proposed under S. 377, right?

Mr. DOUGLAS. Yes, sir.

Senator STEVENS. You do have two significant differences. In the first place there are three reflagged vessels that have been in use in the North Pacific for over 2 years now that have been accepted as part of the fleet.

They did get the domestic processor preference because they were reflagged. The bill I introduced would not have turned back the clock on them. What do you propose to do about that?

Mr. DOUGLAS. Our prepared testimony, Senator, has a proposed amendment and the date of April 6, 1987 is our proposed cutoff date.

Senator STEVENS. You accept the fact that they are also part of the fleet and you would not reverse the clock on them?

Mr. DOUGLAS. I don't know the three vessels that you are talking about, but obviously if they were put in before that date, the answer is yes.

Senator STEVENS. I don't know their names either. I just know they are there.

Mr. DOUGLAS. April 6 is our suggested date. We are relatively flexible.

Senator STEVENS. The second difference is that we proposed 100 percent domestic labor. You say 75 percent. Why?

Mr. DOUGLAS. There are two reasons. The primary reason for saying 75 is because we believe that there would be any number of instances where a foreign technician as part of a technology exchange between whatever nation might be fishing directly, buying the fish or selling equipment used on board a U.S. vessel, might be desirable on board that ship. I don't know what percentage of the crew that one or two people might be. If it was a very small vessel, then obviously two people, if that is how many, would be a high percentage.

We think 100 percent is not a good percentage. We propose 75. Quite frankly, 75 percent is a figure that is already in the law in some respects, which is why we are suggesting it.

The other thing is that your particular bill speaks of seamen, 100 percent seamen. Quite frankly, sir, we are not sure what the definition of seamen is, whether that would include workers on a processing line or not. Our definition is 75 percent of the entire manning complement, given that we still agree with 100 percent of licensed officers be U.S. citizens as the Coast Guard now requires.

Senator STEVENS. We acted on the Coast Guard's statements that our bill includes everybody on board that was associated with the vessel. But the Seafarers International Union has also suggested that the 100 percent requirement be permitted to be waived, if there are circumstances that justify a foreign crew presence because of special skills in handling fish processing equipment.

What would be your position on that? Have you seen their proposal?

Mr. DOUGLAS. I have not, sir, but I am aware of that scenario, and let me say this. We are not exactly wed to 75 percent. We would be willing to work with you and your staff in amending this and adjusting this any way that we think is appropriate.

Senator STEVENS. Would you have any problems about giving each council the right to waive? I do not think they should have to come to Washington in order to receive a waiver of the 100 percent requirement. They could waive it down to 75 percent.

Would you have any objection to that?

Mr. DOUGLAS. That would be a pretty new function for the council, and right off the top of my head, knowing that councils tend to vary from area to area, I would think we would need some consistency in that regard. I would think we would want to look at that.

Senator STEVENS. I do not know why. Down in the Gulf of Mexico you might have one problem and you may have another problem up in the north Pacific and an entirely different problem in the New England waters.

I would think it would be something that would not require national consistency. I would urge you to take a look at it, anyway.

But lastly, let me say this. My good friend the chairman and I are trying to make certain that a reflagged vessel does not get the priority of a domestic flag vessel.

In the past, it was a domestic vessel that was flagged in the United States. I studied the matter and believed it to be wrong to bring in a foreign-built vessel, reflag it under the Magnuson Act and thereby become eligible for the domestic preference.

Would your proposal accomplish the same objective?

Mr. DOUGLAS. Yes, sir.

Senator STEVENS. Does the Coast Guard agree with that? There is nothing that would be accomplished by S. 377 other than the labor requirement that would not also be accomplished by the NOAA proposal?

Captain ECKER. I would concur with that, sir.

Senator STEVENS. We are not wedded to the approach, Mr. Chairman. The objective is what we want to obtain, and if it is neater to amend the Magnuson Act I would urge everyone to study that. We thought the best way to do it would be to make certain that the reflagged vessel did not have the priority.

I am receptive to your suggestion, so long as we do not turn back the clock. I do not know whose boats they are, but I would just as soon not change the rules of the game halfway down the road.

Mr. DOUGLAS. We will certainly commit to work with you and your staff in developing whatever changes of this legislation we both can agree is appropriate.

Senator STEVENS. Thank you.

Senator BREAUX. Can you tell us how many foreign-built processing vessels have been reflagged, if any?

Mr. DOUGLAS. I do not have that. I know of two off the top of my head. Senator Stevens thought there were three.

Senator STEVENS. I am informed there is a small one that was reflagged by one of the native corporations in Alaska.

Mr. DOUGLAS. There is the *Holland*.

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Senator STEVENS. The *Yupik Star*, my staff tells me.

Mr. DOUGLAS. I do not know that vessel. There was the *Holland* that was reflagged on the east coast by Fass Brothers, Louie Fass out of Hampton. There was the *Frederick Busse* that was a German vessel that was reflagged as the *Golden Alaska*, I believe, and in the Alaska. Those are the only two that I personally know of.

Senator BREAUX. Another question that I am trying to nail down for the record is the question again of U.S. harvesters that are currently fishing in those areas. As the foreign-built joint ventures would be phased out, as we have U.S. processing vessels come in, most of the U.S. processing vessels would probably be catcher-processing vessels.

The question would be what assurance is there, if any, that these vessels that are now currently fishing would have a market and would not just be kicked out of that particular market? Do you understand what I am saying?

Mr. DOUGLAS. You are talking about the harvesting vessels?

Senator BREAUX. That are currently in there now, the U.S. harvesting vessels that are operating in that area. If we come in with U.S. catcher-processor vessels that would do catching as well as processing, will in fact these harvesters that are there now have a market for their particular product?

What are their options, if any?

Mr. DOUGLAS. I am not sure I understand. Are you saying because it is a catcher-processor that there may not be a market, because they catch and process?

Senator BREAUX. It will not be a market for the 130 vessels that are out there now catching and selling to the joint ventures. They are going to lose that market if it is being replaced by a factory ship, a catcher-processor vessel that catches the fish as well as processes the fish.

Will they not replace and completely take over that market?

Mr. DOUGLAS. It depends on how the person would operate that catcher-processor. Some catcher-processors will catch 100 percent of what they will process. Others I am sure will also engage in taking fish over the side as well as catching itself. I think it is on a case by case basis.

Senator BREAUX. Would that be our answer to those 130 vessels, to tell them they should try to make a deal with the catcher-processor vessel?

Mr. DOUGLAS. I have to go back to the answer I gave you to the previous question as to how you set up the specifications in a given fishery. And if these catcher-processor vessels come in as catchers, then they are competing with the other catcher vessels like any other new catcher vessel that comes in.

And yes, they might be able to displace them. To the extent it is a processor, it is continuing to operate a market for some catchers.

Senator STEVENS. Would you yield?

Is not the answer that this bill, either your version or the one I propose, does not deal with the question of domestic-built vessels? It only deals with the question of what happens to the foreign-built vessels that seek to be flagged under U.S. law. We thought that was an unfair advantage, to bring those lower cost vessels in and inject them into the stream.

The chairman's question is a very good one: What is going to assure these harvesting vessels that there will be processing capacity there if the domestic fleet becomes catcher-processor and we have a whole generation of catcher vessels?

That is not affected by this bill. Maybe we should deal with it somehow by Federal legislation, but it is not in here now.

Mr. DOUGLAS. That is correct. As the chairman posed the question, it concerned a new domestic vessel coming on line, but nevertheless he was concerned about a market, which I understand. That new domestic vessel takes its place alongside other domestic vessels in the allocation scheme, just like any new harvesting vessel or any processing vessel.

Senator BREAUX. Well, there is a big difference. I think that is what we are trying to get at. That catcher-processor is going to have an ability and an allocation to catch. He is also going to have his own processing capacity.

The 130 vessels out there now may be losing that access to processing and they may have some more problems.

Mr. DOUGLAS. That may be, but that is the competition between U.S. harvesting vessels and capacity.

Senator STEVENS. And not altered in any way by this bill.

Mr. DOUGLAS. No, sir. In fact, I would say what we are trying to do is keep a foreign vessel from being reflagged and coming in and doing that thing.

Senator BREAUX. Another point is that every one of those catcher vessels out there now would not be prohibited in any way from engaging in a catcher-processor vessel themselves if they could put together the capital and do it. That is another point that I think should be made.

OK, Senator Stevens, do you have any other questions?

[No response.]

Senator BREAUX. The Coast Guard has no preference from an enforcement standpoint? It does not make any difference to you what the legislation happens to be from an enforcement standpoint?

Captain ECKER. That is correct, sir.

Senator BREAUX. OK. Thank you.

I would like to welcome at this time a panel consisting of: Mr. Jack Edwards, president of Halter Marine Co. of New Orleans, LA; the Honorable Paul Fuhs, who is mayor of the City of Unalaska; the American Ship Building Co., Mr. Allen Fernstrom; and Mr. Frank Pecquex, who is legislative director for the Seafarers International Union.

Gentlemen, we welcome you and appreciate you being with us, and we are pleased to receive your testimony.

Mr. Fuhs, we will be glad to have you. We will let you speak first, if you will.

**STATEMENT OF JACK EDWARDS, PRESIDENT, HALTER MARINE, INC.; PAUL FUHS, MAYOR, CITY OF UNALASKA, AK; H. ALLEN FERNSTROM, PRESIDENT AND CHIEF EXECUTIVE OFFICER, THE AMERICAN SHIP BUILDING CO.; AND FRANK PECQUEX, LEGISLATIVE DIRECTOR, SEAFARERS INTERNATIONAL UNION**

Mr. FUHS. Thank you, Senator Stevens and Mr. Chairman.

I am here today representing the city of Unalaska and the Southwest Alaska Municipal Conference. This bill is especially important to us because in our region fisheries is 98 percent of the private income of our area. That is all we have is fish.

I think, Mr. Chairman, the easiest way for me to put this to you is, our state is in much the same situation as the state of Louisiana. We are dependent on oil revenues. Those oil revenues are down, and we need an industry than can take the place of that and this fishing industry can do that.

We are working together with other cities in Alaska to put this together, and we have got a lot to work with. Currently there is being harvested about 5 billion pounds of fish a year out there. That is a lot of fish.

And for years we watched the foreign processors take millions of pounds and millions of dollars of fish out of these waters, and the only time we ever saw them was when they wanted an ambulance or medical service, the exception to this being the Soviet fleet, which did spend quite a bit of money in our town.

To allow reflagging at this time would be a threat to our plans to rebuild our state and I think would be a really bizarre aberration to the intent of the Magnuson Act. This is the cutting edge of reflagging, the bottomfish in Alaska. Because these foreign fleets are being displaced, they are looking for a back door to get back in.

Once they are reflagged, though, they can process salmon, crab, shrimp, all of the other fishery products which have been the mainstays of our economy. And they would not only be able to do that in Alaska. Those reflagged vessels would be able to go to the west coast, the Gulf of Mexico, the Atlantic coast, anywhere where coastal communities depend on fish processing for their economies.

There has been a lot of talk lately that the United States is not competitive with other foreign nations. Well, I submit that this is one industry where we have got people that are willing and eager to get into it. Part of the reason it has not developed further is that people are nervous about the possibility of this reflagging of foreign processing vessels.

The market is good for fish now. It is better than it has ever been. People are eating a lot more fish, and the time is very good for this industry to develop.

There is no question that we have the technology to do this. There is no question that there is the capability in American shipyards to build these vessels. And what we are talking about here now, currently there are about 300 foreign processing vessels in this area in the 250- to 600-foot range. That is a lot of shipbuilding.

And if these people want cheap boats, there is also a lot of cheap American boats. There is a lot of decommissioned boats from the oil industry, from the offshore oil industry, and a lot of these are being converted for Northwest fishing right now and are being converted in U.S. shipyards.

You know, one thing that has always bothered us about the fishing out there is the foreign fleets have taken this product from our waters, they have taken it and they have reprocessed it into finished products, they have re-imported it back into the United States, and because of that our trade deficit in fisheries last year alone was $4.8 billion.

Plus all the value added of processing these fish accrues to the economy of the foreign nations. Now, Japan alone estimates that over half a million jobs, half a million jobs, directly or indirectly accrue to their nation from fishing in the U.S. 200 mile zone. Those should be U.S. jobs.

We took this issue to the North Pacific Fisheries Management Council. They voted unanimously to recommend a ban on reflagging. We took it to the state legislature. They passed a joint resolution. And now we bring it to you to plug this loophole.

[The statement follows:]

STATEMENT OF PAUL FUHS, MAYOR OF UNALASKA, AK

I am here representing the Southwest Alaska Municipal Conference. We are coalition of cities representing 20,000 people who make our living from fisheries in the Bering Sea and the Gulf of Alaska. A recent analysis indicates that in our region fisheries accounts for 98% of income generated from private industry sources. (The Commercial Fishing Industry in Alaska's Economy, Institute of Social and Economic Research, March, 1987)

This reflagging issue came up during discussion of future fisheries development plans for our region. We are on the cutting edge of the issue because for many years the foreign fleets caught up to 5 billion pounds of fish a year in our area.

As the Magnuson Act is taking effect and the foreign fleets are being displaced by American processors, the only way they can maintain their domination of the fisheries is to reflag their processing vessels.

For years we watched these foreign fleets take millions of dollars of fish from our waters and the only time they came to our port was when they needed an ambulance and medical care.

These fish were taken back to the foreign countries and processed into finished products, then exported back into the U.S., adding to our massive trade deficit which last year in fisheries alone amounted to $4.8 billion.

Although the push for reflagging is starting in the Alaska Bottomfish fishery, once they are reflagged they could process any other seafood products—salmon, shrimp, crab—the traditional products which have been the lifeblood of our communities.

And if they can do it in Alaska they can do it on the west coast, Gulf of Mexico and Atlantic coast, threatening the economies of other U.S. coastal communities.

The foreign processing vessels have significantly lower costs of construtions, capital costs, labor costs of as low as 45 cents per hour, and vastly different health and safety regulations. They would be grossly unfair competition for American built and operated processing operations.

A recent analysis performed by the staff of the North Pacific Fisheries Management Council (NPFMC) indicated that to equalize the cost between an American Processor and a Korean factory ship would require an equalization fee of $400 to $600 per metric ton of fish. American fishermen are currently paid only $120 per metric ton.

So, we have a lot to lose if reflagging is allowed. But what do we have to gain in the Bering Sea fisheries if it is prohibited? At the March, 1987 meeting of the NPFMC, a video tape was shown entitled "The Exclusion of Japanese Fishing Vessels From the Bering Sea" by NKH, the Japanese Broadcasting Corporation. The translation provided put it this way:

*Scene three—On board Japanese trawl vesssel:* The captain of this vessel has been fishing for pollock all winter. His fishing opportunities are rapidly being diminished due to controls imposed under the 200-mile zones of the Soviet Union and the United States. Over 500,000 Japanese derive directly or indirectly their livelihood from fishing operations in the U.S. 200 mile zone.

Over half a million jobs! And that's only the figure for Japan. There are also Korean, German, Portugese, Chinese, etc operations in the Bering Sea.

We took this issue to the MPFMC at their December, 1986 meeting and they voted unanimously to recommend prohibiting reflagging. We took this issue to the Alaska State Legislature and they passed a joint resolution in favor of legislation banning reflagging foreign processing vessels. And now we come to you seeking to plug this unforeseen loophole in the law.

You might rightfully ask, if this is such a motherhood issue, then why are some Americans in favor of reflagging? Unfortunately, a group of American fishermen

have carved out a small, but very profitable niche for themselves in joint venture operations delivering fish to these foreign processors. They want to maintain this niche even if it is at the expense of other sectors of the fishing industry—processing, transportation, etc.

They have formed the American High Seas Fisheries Association and are here to testify in favor of reflagging or at least a window period. They claim to be in favor of Americanization but in a more candid internal memorandum, AHSFA President Hugh Reilly laid it on the line: "Reflagging of foreign processors—without the *Tenyo Maru* where are we? Do we care what flag flies over the stern? or who owns her?" ("The Dutch Harbor Fisherman, March 1, 1987")

They may not care, but we do. At stake is the future of our coastal communities, the jobs of shipyard workers, cargo companies, processing workers, etc. which all envisioned to benefit from the passage of the Magnuson Act.

Concerning the form of the Bill, the House version has a provision limiting foreign ownership of U.S. processing vessels. While we support this provision, we want to make it very clear that this is not an acceptable substitute for a ban on reflagging. It is far too easy to mask the true ownership and far too difficult to identify the source of capital for this to be an effective measure on its own.

Finally, we wish to express our appreciation to you for considering this important legislation.

Senator BREAUX. Thank you very much, Mayor.

Let us go ahead and get Mr. Fernstrom on record now. Allen, we are pleased to have you here.

Mr. FERNSTROM. Thank you, Mr. Chairman and members of the committee, for allowing us to address the issues embodied in this important legislation. We commend your initiative for scheduling this hearing early in this session of Congress.

I am H. Allen Fernstrom, president and chief executive officer of The American Ship Building Co. American Ship has corporate headquarters in Tampa, FL, where our subsidiary, Tampa Shipyards, operates a major facility for conversion, repair, and new ship construction. Our Nashville division, Nabrico, is a major builder of barges for the inland waterways.

We strongly support legislation such as S. 377, both for its salutary effect on the beleaguered U.S. shipbuilding industry and because it will promote the full realization of the purpose of the Magnuson Fisheries Conservation and Management Act.

More specifically, we believe legislation is necessary to prevent reflagging of foreign-built fish processing vessels, which could occur under current law because of differences between the Magnuson Act's definitions of "fishing" and the "fishing industry" and, on the other hand, the definition of the "fisheries" for purpose of vessel documentation laws.

In 1984 through 1986, our Tampa yard carried out a project to construct five new T-5 tankers, all of which are now in successful operation on behalf of the U.S. Navy. We made over $60 million worth of improvements to our Tampa yard and now have one of the most advanced facilities in the United States.

The T-5 vessels were constructed in modules at separate facilities we operate on Tampa Bay. Then they were barged to the main yard for final outfitting and assembly. This modular construction technique allows us efficiencies which are not possible with traditional ship construction methods. It makes extensive use of computer-assisted design and computer-assisted manufacturing, and contributed significantly to the overall success of the T-5 program.

Mr. Chairman, we set some kind of a record for a shipbuilding company. We delivered five tankers within a 10-month time frame.

The shipbuilding industry, as you know, has been and is very depressed. We knew back in June 1985 that the outlook for traditional markets was bleak and began to explore what other industries might require our recently upgraded services.

We came to learn about one of the greatest opportunities currently available in the U.S. industry, and it is that great opportunity, the Americanization of the vast U.S. fishery resources in the North Pacific exclusive economic zone, that brings us before you today.

Once we saw the vast economic potential of the U.S.-managed stocks of groundfish in the North Pacific, we began to study that resource and the current industry in earnest.

We hired experts in fish processing technology, operations, fleet management, and processing vessel design. To date, we have invested nearly a million dollars in study and naval architects' and engineers' fees, and in funding technical, experimental designs to improve on existing fish processing technology, particularly in the manufacture of surimi.

We have designed a facility to process groundfish which we believe to be more advanced, more economical, and more efficient than any currently in use anywhere in the world. This facility is a very large ocean-going barge, 100 feet by 400 feet, which will make complete use of all fish coming aboard.

Presently we are only considering the construction phase and are now in negotiations with large processor owner-operators for the purchase of the barges which we plan to construct.

There will be little or no waste products at all, and the state of the art processing plant will be flexible enough to manufacture several different fish products simultaneously. The ratios between different products will be determined by market demand, rather than processor capacity, so that this operation will be immediately responsive to change in demand for various groundfish products.

The cost of this facility and accompanying tenders will be over $45 million. Extensive research has convinced us that this new industry, that of processing Alaska groundfish, merits the large capital investment contemplated here. We are confident in the proven abilities of the North Pacific Management Council and the National Marine Fisheries Service to regulate the fisheries effectively so that the fishery resource will be available for future generations.

The skill and efficiency of U.S. trawlers is now beyond question. In the short period since the Magnuson Act's passage in 1976, they have increased their catch of groundfish in the North Pacific from near zero in 1976 to over 1.5 million tons in 1986.

We know that very soon all groundfish caught in the North Pacific exclusive economic zone will be caught by U.S. fishermen. We have no doubt that the market for the barge-factory's product is strong, both in the United States and abroad, and are encouraged by recent negotiations which will lift quota restrictions in the vast Japanese market.

Current negotiations with purchasers of the barges are at a very advanced stage. Therefore we are convinced there is resource availability, raw fish supply from the U.S. fishermen, a strong market for products, and thus a profitable operation.

Frankly, Mr. Chairman, we have no doubt from a pure business perspective that this large investment is merited. This project is the largest publicly announced plan to Americanize U.S. processing of groundfish. Each barge will cost over $45 million. Each will require hundreds of thousands of U.S. man-hours of labor to construct. Each will pump millions of dollars into the U.S. economy. Each will operate as a reliable U.S. market for current U.S. trawlers, and each will provide a dependable supply of healthful food to the U.S. consumers. Each will employ over 150 processing workers and will require services from Alaska's shoreside communities.

The great risk we fear is the potential for foreign vessel reflagging that this legislation would foreclose. That risk could spell the ruin of this project and all others that are currently planned.

Mr. Chairman, the U.S. fishing industry has, as I have mentioned, made great strides since the Magnuson Act's passage. We are one of the world's most blessed nations in terms of our vast fishing resources, the greatest of which by far is in the North Pacific and Bering Sea.

And with all the progress we have made as catchers of fish, our trade imbalance in food fish alone still exceeds $3 billion per year. The reason for this anomaly is straightforward: foreign processors pay our fishermen less than 10 cents per pound for raw fish. The processed products are later sold, often in U.S. markets, at prices ranging from $1 per pound to much higher, close to $5 per pound for some high value products.

Thus far, the industry has expanded in the lower value sector of catching, which is clearly protected by the current law and which requires less capital and technology than the value added sector of processing.

We recognize the concerns of U.S. fishermen, who feel that the legislation would adversely affect their profitability. This project would ensure the opposite result. Tendering vessels will buy fish over the side at sea on the fishing grounds. The fish will be transferred to the tenders using codend transfers that are familiar to joint venture fishermen.

The price paid will be competitive with the prices currently paid by foreign processors. The only differences this operation will make to the fishermen are positive: they will be able to sell their fish year-round rather than primarily in pollock roe season or during other brief periods of intensive fishing.

What this legislation will do is grant U.S. fish processors the identical protection given U.S. fish catchers. Without passage of this legislation, the giants of world fishing will be able to reflag their paid-for vessels and continue operating as now, in direct competition with new, truly American processing activities.

This will no doubt continue to add to the enormous U.S. trade deficit. It is worth noting that many of these foreign vessels were paid for through profits made during decades of free fishing in what now comprises the U.S. exclusive economic zone.

It is clear that a facility or facilities which have extensive debt service could not compete effectively with those that are fully amortized. Given continued free access to U.S. resources, the potential for huge foreign entities to undercut even the largest and most cost effective of the U.S. pioneers is real indeed.

With this legislation, we believe that the fish trade imbalance could be reversed and the United States could become a net exporter of fish. Our resource wealth certainly justifies exporter status.

Without passage of this legislation, we are equally certain that the prospect of a large-scale U.S. primary processing industry will not be realized and the fish trade imbalance will grow, and all our progress toward full Americanization of the U.S. resource will have been in vain.

In conclusion, American Ship believes that legislation like S. 377 is essential if the U.S. fishing industry is to be truly and fully Americanized, as intended by the Magnuson Act. We encourage you to give early consideration to this legislation.

To that end, we are prepared to render whatever assistance the committee may need. Again, we appreciate the opportunity to testify on this bill and we will respond to any questions you may have.

[The attachment referred to follows:]

ATTACHMENT 1

The passage of the Magnuson Act was a signal event in the history of the United States fishing industry. One of the seven Congressional statutory findings was that commercial and recreational fishing is a major source of employment and that such fishing is a significant contribution to the national economy, and is especially important in many coastal areas. Congress also found that serious economic damage had been done by overfishing of fishery resources and that massive foreign fishing fleets had contributed to this damage. See 16 U.S.C. § 1801(a)(3). Accordingly, two of the six statutory purposes are to promote the domestic fishing industry under sound conservation and management principles (see 16 U.S.C. § 1801(b)(3)), and to encourage the United States fishing industry to develop fisheries currently underutilized by the United States industry, including specifically bottom fish off Alaska (see 16 U.S.C. § 1801(b)(6)). In short, the Magnuson Act was designed to "Americanize" the fishing industry operating within the 200-mile jurisdiction of the United States.

The Act has now succeeded in bringing about almost full Americanization of the harvesting component of the U.S. fishing industry. However, the Act's impact so far on the processing segment of the industry has been much more limited.

There are a substantial number of foreign-built, foreign-flag processing vessels already operating in the North Pacific exclusive economic zone (EEZ). In reviewing the terms of the Magnuson Act and the vessel documentation laws, we have noted that it is possible that these foreign-built processing vessels could be placed under U.S. flag and could thus achieve the preferred status, under the Magnuson Act, of a "vessel of the United States." This possibility arises because of a definitional discrepancy between the Magnuson Act and the vessel documentation laws.

The Magnuson Act's definitions of "fishing" and the "fishing industry" are deliberately inclusive. "Fishing" includes "any operations at sea in support of" the catching of fish. See 16 U.S.C. § 1802(10)(D). The "fishing industry" includes vessels assisting in any activity related to fishing, explicitly including "processing." See 16 U.S.C. § 1802(11)(B). On the other hand, the vessel documentation laws do not include processing within the listed activities which come within the term "fisheries." See 46 U.S.C. § 12101(6).

This difference becomes important in light of the Magnuson Act's definitions of "foreign fishing" and "vessel of the United States." "Foreign fishing" is "fishing by a vessel other than a vessel of the United States" See 16 U.S.C. § 1802(12). A "vessel of the United States" is, principally, one which is "documented under the laws of the United States." See 16 U.S.C. § 1802(27)(A).

While the documentation laws of the United States permit a registry to be issued for a vessel eligible for documentation (46 U.S.C. § 12105(a)), a vessel does not as a general proposition have to be built in the United States to be eligible for documentation. See 46 U.S.C. § 12102. On the other hand, there is a general prohibition against foreign-built vessels engaging in the fisheries (46 U.S.C. § 12105(d)). A fisheries license or an appropriately endorsed registry may be issued only for a vessel which has been built, with very limited exceptions, in the United States. See 46 U.S.C. § 12108(a). But, as just noted, because for vessel documentation the "fisher-

ies" do not specifically include (and thus arguably exclude) fish processing, this U.S. construction requirement may well not apply.

The Magnuson Act prohibits "foreign fishing" in the fishery conservation zone without first obtaining a permit from the Secretary of Commerce. See 16 U.S.C. §§ 1821, 1824. And more specifically, the criteria for approving permits for processing by foreign fishing vessels create a statutory priority for U.S. fish processors. See 16 U.S.C. § 1824(b)(6)(B). But the Magnuson Act's purpose to promote domestic commercial fishing, and its entire permit process and priority-of-access criteria, can be subverted because of this anomaly in the relationship between it and vessel documentation laws.

Senator BREAUX. Thank you, Mr. Fernstrom.

Mr. Edwards from Halter Marine.

Mr. EDWARDS. I appreciate the opportunity to be here today to testify before the Committee on Commerce, Science, and Transportation.

I am here to request your support of legislation closing the statutory loophole which permits foreign-built vessels to fly the U.S. flag, with full domestic privileges to process within the 200-mile exclusive economic zone, better known as the EEZ.

First let me tell you a little bit about Halter Marine. We are the world's leader in building offshore vessels. We lack only two vessels of having built 1,100 vessels since we were formed in 1956. We not only build vessels, but we custom design them with our own engineers and draftsmen. We offer on the shelf, off the shelf parts for the vessels to keep them operating, and we also train crews.

Since the nearly complete collapse of the market for the offshore oil vessels in 1982, Halter and other gulf coast yards which build vessels in the 100-to 250-foot class have been in a fight for our very existence. By my own estimate, nearly 80 percent of the yards which participated in this business at that time do not exist today.

Those of us who have made it through this crisis, at least to this point, have done so by building vessels for the U.S. military and the U.S. fisheries industry. In 1982, Halter was operating seven yards on the gulf coast and employing 3,000 people. In 1986, we were operating two yards and employing 300 people. This year we are currently employing—our employment is up to 550 people.

This turn-around in employment is due in part to the hiring that we have accomplished in connection with our work for the fishing industry. In 1986 we delivered a 140-foot factory processor fishery vessel, and presently we are building a 225-foot catcher-processor factory ship, and we are in the process of modifying a U.S.-flag oilfield vessel for the fishing industry, which by the way we originally built new 5 years ago.

We believe there are good prospects for similar conversions, provided the foreign flagging loophole does not ruin the market for us. We are projecting additional work in new construction and conversion of existing U.S.-flag oilfield supply vessels for fishing operations in U.S. territorial waters. We expect this will mean jobs for presently unemployed U.S. shipbuilders and will hopefully allow us to reopen some of our closed facilities in Alabama, Louisiana, and Mississippi.

We are presently negotiating with some owners on existing conversions also of other U.S.-flag vessels, which I think this bill will have a lot to do with whether or not we are awarded the jobs.

Vessels for the fishing industry comprise one of the few new construction markets still available to us, but because of the apparent loophole in the current law foreign-owned companies can document a foreign-built vessel as a vessel of the United States and thus obtain first priority to process United States fish harvested within the EEZ, the territorial sea, or internal waters of any state.

Not only is this loophole detrimental to the United States fishing fleet and the preservation of the coast resource for our best interests, but it strikes another blow at shipbuilding in this country at a time when we are already barely surviving as a viable industry.

Make no mistake about the nature of the foreign competition in shipbuilding. Halter competes on a worldwide basis with vessels designed and built by these same countries who are attempting to take over for their own national interests the vital U.S. fisheries assets.

These governments finance their shipyards. Indeed, many are nationally owned and often treat their cost of labor as a fixed cost, on the basis that they would have to provide employment for their people anyway.

The competition is not only intense, it is patently unfair. We need the help of the Congress to preserve not only our valuable fisheries, but to maintain, not through state ownership or unfair subsidization, but by acting in our own natural interest we will preserve the middle sized shipbuilders of this country.

We appreciate the opportunity to express our concerns and stand ready to cooperate with the Congress in any way we can.

Senator BREAUX. Thank you very much, Mr. Edwards, for your presentation.

We will next hear from Frank Pecquex, the legislative director of the Seafarers, on behalf of the maritime trades.

Mr. PECQUEX. Thank you very much, Mr. Chairman. We welcome this opportunity to testify in support of legislation that we feel will help expedite Americanization of the domestic fisheries.

The Maritime Trades Department has, as most other people who are supporting this legislation, a variety of trades that have vested interests in the passage of this legislation. We in the Seafarers have fishermen and processing workers. I am accompanied today by Mark Coles, who is secretary-treasurer of the Alaska Fishermen's Union, which is a bit of a misnomer because all of its members work in fishing processing plants.

We also have in the Maritime Trades Department shipbuilding interests as well as industrial interests who would stand to benefit from this legislation.

The concept of Americanization of the fisheries is beneficial from a variety of standpoints. I think the most notable benefit would be to move away from our colony status in terms of international trade. We are seeing too often lately that foreign nations want to take our raw materials and process them and, as has been pointed out earlier today, send them back to us as finished goods.

We would prefer that the goods, especially the bottomfish that are harvested in the Pacific Northwest fisheries, be exported in the form of value added products. Certainly, our balance of trade in fish products would be enhanced. Americanization of the fisheries would create additional business opportunities, and whenever you

create business opportunities for American corporations you create job opportunities for American workers.

Two of the items of particular interest to us in this legislation and the legislation is presently working its way through the House involves the building of the vessels. We support the restriction on reflagging of foreign-built vessels.

We certainly support the notion that they should be built in American yards. We feel that anybody who builds an American vessel, if he goes head to head with a reflagged foreign-built vessel, is going to have a competitive disadvantage because more than likely that foreign-built vessel has capital costs that have already been amortized. So the operator with a foreign built hull is going to be in a much better operating position.

In terms of the shipyards, we believe that the yards have demonstrated the fact that they can construct these vessels, and we feel too that the cost differential between the foreign ship and the American ship for this type of vessel has narrowed to the point where they are cost competitive.

We point out, although it does not involve the fisheries, there was a similar case involving sludge barges that were built for the City of New York, and which has prompted legislation to be introduced on the House side. The sludge barges were built in a Singapore yard, I think at a cost of about $22 million. An American yard down in the Gulf of Mexico would have built them for approximately $27 million. The foreign yard did not factor in transportation costs, which I believe were rather substantial.

So I think in certain types of fish processing vessels there is no question that we can be cost competitive. The major benefits is it creates shipyard jobs, and that is certainly why we are interested in the legislation. In addition, from a national security point of view, I think it helps maintain the shipyard mobility base.

The other basic point that we would like to raise is the question of citizenship of the crew aboard these vessels. We support a 100 percent citizen crew requirement, and we support that requirement both for the navigational or operating crew as well as for the factory complement that would be aboard the fish processing vessels.

We also would urge that there be a 100 percent citizen crew requirement at all times of the vessel's operation.

As I have stated already, we have fishermen who are members of our union, and in the past we have had experience with efforts to use less than 100 percent citizen crew, especially in the distant water fishing fleets. We have heard excuses that they were unable to secure sufficient numbers of American fishermen to go abroad or that the foreign governments require employment of nationals aboard American flag vessels when they are operating in their national waters.

We believe if American ship owners can accede to a request of other governments for 50 percent of their crew to be foreign nationals when they are operating overseas, that it is a modest proposal to suggest they accede to a 100 percent requirement when they are operating in domestic waters.

We do recognize, as has been pointed out in our testimony, that there are certain conditions that will exist that may require flexibility. We have heard of the case that, in terms of the important

Japanese market for roe there is a requirement that Japanese inspectors be involved in the processing procedure.

Arguments have been made that certain types of equipment used in fish processing, since they are manufactured overseas, would require skilled foreign personnel to be utilized as part of the crew in order to ensure its proper operation.

We feel that it would be better to start off with 100 percent citizenship requirement and provide waivers for those foreign crew members who might be needed aboard the ships until such time as Americans are able to replace the foreign nationals.

It is our understanding these processing vessels will have crews ranging from 50 to 75 people. If that is the case, you are talking about a significant number of jobs. If we are talking about just five jobs aboard each factory ship that are held by foreign workers we could still basically lose out on 10 percent in terms of employment opportunities if we do not have 100 percent citizenship requirements.

We believe the vessel should be manned with American crew at all times. It is our understanding that these vessels, once they leave port, will be out for extended periods of time, with no opportunity for crew members to routinely depart from the vessel. It would not be much of a burden for replacement of any crew member with another qualified American that wants to get off when the vessel pulls into an American or foreign port.

This is something that is routinely done in the maritime industry on international voyages, and since we are talking, I guess in a worst case scenario, about a vessel pulling into a Canadian port we do not think that is too much of a burden to have that member who wants to get off to be replaced by another American citizen.

We welcome the opportunity to work with the committee in terms of fostering further development of this legislation, and we will work with you to secure passage and adoption of this as it moves through the legislative process.

We thank you and we welcome any questions you have.

Senator BREAUX. Thank you very much, everybody on the panel, for appearing.

Let me ask a question of Mr. Edwards and Mr. Fernstrom. What about the argument that to require the vessels to be U.S.-built vessels that we just are not going to be able to be competitive because of the higher cost, the longer delays, or other reasons that we have all heard as to why it is necessary to build foreign?

I guess the question is, can you build a ship or a catcher-processor vessel in New Orleans that is going to be able to compete economically with one that would be built, say, in a Taiwanese or South Korean yard?

Mr. EDWARDS. I will give you a good example. We just had a bid opening on a vessel, and I will even quote our prices. Our price for this particular vessel was $4.7 million. Mitsui in Japan was $5.1 million. The winner of the contract was a shipyard in Holland, and it is a subsidized shipyard, and the price of the vessel went for $3.7 million.

We cannot compete with that, even though the mobilization costs are not taken into account when they buy vessels like that, be-

cause, as this gentleman said, it is very expensive to mobilize a vessel or to get a vessel from Holland to the United States.

We are bidding very competitive. At times, we are bidding without profit. If any at all, it is very modest. As I said, we are struggling to survive. And we have work in process. We are proud of the fisheries work that we have, and I think we can compete with anybody worldwide, except the subsidized yards.

Senator BREAUX. Do we have the capacity in the U.S. yards to do the conversions if conversions are the way to go, or to do the construction in a timely fashion to have that capacity out in these fishing areas in order for the harvesters to have a place to bring their catch if they want to process in our waters?

Mr. FERNSTROM. We certainly have. The shipbuilding industry in our country certainly has the capacity to convert all the offshore oil supply boats that are currently laid up. All those boats could be converted with the capacity of the U.S. shipbuilding industry.

I would like to point out that the proposal that we are offering is a seafood processing barge which is a large floating factory, which does some of the things that you were asking about earlier today. And that was, where would there be a market for the catcher vessels?

Our approach provides a floating factory where catcher vessels can sell their product.

Senator BREAUX. Your large vessel would not be a catcher-processor? It would just be a processor?

Mr. FERNSTROM. That is correct. It would buy fish over the side from the catcher vessels. And we certainly have the capacity to build a series of these vessels. As I said in my testimony, they are very large. They have a throughput per year of 100,000 tons of raw fish, in the round.

Therefore, if you put six barges out there, you are talking 600,000 tons of fish that these barges would buy from the fishermen, the current fishermen, and would give them that kind of a market, out of a total market of 1.5 million tons.

Senator BREAUX. What about—Mr. Pecquex, you recommended a 100-percent manning requirement on the vessels. We do not have that for the fishing vessels and we do not have that for shoreside processing plants that are located on shore.

Some would probably argue that we would be putting the floating processing vessel in an uncompetitive posture because he would be having to compete against processing vessels on shore that could be employing any number of foreign workers, perhaps at a lesser rate.

Mr. PECQUEX. That may present a problem but in light of the recent passage of immigration legislation controlling the availability of undocumented foreign workers the impact of a "hire American" provision on overall competitiveness would be minimal. The shore based fish factories, which are located in Alaska, already rely on American citizens to fill the greater portion of their job vacancies. Furthermore, the alien workers employed at shoreside facilities will likely either become naturalized American citizens or secure the necessary documentation to permit continued employment in the United States.

In either case, the effect on labor costs should be identical as workers seek compensation based on their ability as opposed to their citizenship status. It is likely workers both ashore or at sea will be paid at wage rates that reflect what is necessary to be cost competitive.

The question of ultimate ability of either type of domestic fish processing facility to be profitable will be determined by other cost considerations, such as capital investment, transportation and operating costs as well as the production of quality fish products.

In any event, a greater problem is presented by maintenance of the current situation which permits foreign flag factory ships with lower overall costs to outbid both domestic shore based fish factories and American flag processing ships.

Senator BREAUX. Do we have the workers? Frank, you would be the one to have to answer that. I mean, is the labor available to put in the 100 percent U.S. citizen requirement, or are we going to put that requirement in and look around and we are just not going to find the men and the women there to do the work?

Mr. PECQUEX. If one advertises only in a local paper, probably not. In truth, in the fish processing industry up in the state of Alaska, we have several thousand people who are out of work right now. So there would be more than enough workers.

This is the reason we are taking a hard line position. Meanwhile, we also recognize you would need a waiver provision for certain positions. There is no question about that. But we would rather start with the 100 percent American and work its way down.

In California, for example, we have only one tuna factory. At one time, however, we had four or five tuna factories with over 10,000 workers who were members of the Seafarers International Union. Most of those canneries have now been moved overseas or to Puerto Rico.

So I do not think there is a dearth of workers. I think there is a dearth of employment opportunities.

Senator BREAUX. When you talked about the waiver, that someone should be allowed to grant a waiver if necessary, did you mention what parameters your suggestion would be to make it eligible for a waiver to be granted?

Mr. PECQUEX. I assume what would be required is a demonstration by a factory ship operator that he needs some sort of exclusion. If, for example, the Japanese make it a requirement that a Japanese national oversee the processing of roe that is caught and domestically processed that would represent a legitimate concern.

If there are technical concerns where you have a piece of equipment that, if it is out of order and it shuts down a whole production line, it is likely that, for a period of time, you are going to need foreign workers to maintain and operate that piece of equipment, I think a vessel operator could demonstrate that need.

We don't envision this question of crew citizenship as a problem or an issue preventing passage of legislation expediting Americanization of the fisheries, but we want to ensure that the legislation is designed to maximize the benefits to the United States. And we would rather start with 100 percent, and if you have to waive certain jobs, do it and do it hopefully on an interim basis. Because in

time it might be possible to develop all shipyard and industrial skills involved in the process.

It is not going to happen overnight, but in the long run you may be creating an American capability with American citizens being able to service the vessels.

Senator BREAUX. Senator Stevens, questions?

Senator STEVENS. Thank you, Mr. Chairman.

Mr. Fuhs, I am delighted you mentioned the 5 billion pounds of fish that have been caught in Alaskan waters. When I introduced the 200 mile limit bill in the Senate I had some discussions with Senator Magnuson at that time, and he subsequently became a sponsor in the next Congress of the bill. Very few people back here really believed that there was that much fish being taken out of Alaska waters.

One of the things I think we ought to get on the record, so there is no misunderstanding, is that ultimately I believe that the processing is going to move on shore. As the cost of fuel goes up, the time will come when processors will have to be on shore, and the transportation primarily will be to shore-based plants.

Do you have that feeling?

Mr. FUHS. I think we are going to have a mix of shore-based and floating processors, because sometimes the fish move away from a convenient place to deliver to on shore. So we will have both.

I think the question that is really germane, and the chairman raised this, and I think it really zoomed in on one of the key things, is, you know, where will the market for some of these come from and how quickly will it happen? We have got a system now, they have a market where they can deliver to the foreign processor.

As domestic capacity comes up, that is slowly eliminated and then they have the choice to go over to the American side. One thing they could do is purchase their own vessels. These vessels are making up to a million dollars profit a year. Crewmen, the lowest paid member on the boat is making $100,000 a year, for six months work out of the year.

The money is there to do it and invest in their own processing vessels. I think that can happen. If we want to do it fast, sure, let us reflag. You would have the whole thing, but we would have institutionalized the whole system that was set up, the whole reason for the Magnuson Act. Why would we want to do that?

If it takes a little more time, let us do that. But if we allow reflagging, what we have said up front is that we expect the domestic industry to fail, so we might as well give up. If we are going to do it, let us do it how you put it in the bill.

Let us look at it in ten years. Then if we have got dislocations and problems, then maybe we need to look at reflagging.

Senator STEVENS. I do not think we even need to put that concept into the bill, because we will have time to look at that option as the development comes. The Chairman has a chart prepared by staff that is very illuminating, and it shows how the progression must take place if the domestic industry is to utilize this fantastic availability of fish.

I was told, you know, by some people last year that if we could arrange to put one fish patty in every school child's menu once a

week during the school year, we are talking about a billion pounds of product just for the school lunch program.

Senator BREAUX. Is that an amendment to the bill?

Senator STEVENS. Well, I would like to make that amendment.

The military is now buying fish for the first time. And we all know what the American demand now is for fish because of dietary reasons and the whole question of health and cholesterol.

I think we are just crazy if we let the foreign shipbuilding industry run away with this. This is one of the first times Alaskans have really joined sides with the shipbuilding industry, and I think some of you remember that. We have had our disagreements over the Jones Act.

Incidentally, Mayor, the time will come when the industry will realize that the highest cost of this operation is taking supplies from the south 48 ports to the fishing centers in Alaska on U.S. bottoms. That is the one major source of demand for domestic vessels today, and to the extent that it increases the cost of the operation it is going to decrease the rate of conversions into the domestic industry.

That is the one issue that I think I disagree with some of my shipbuilding friends here today, and that is the question of whether or not we should not have competitive, worldwide shipping between west coast ports and Dutch Harbor, Kodiak, and the other places that are handling this bottom fishery.

But I congratulate you for coming in, and I think you had a great deal to do with that original letter. So I thank you.

For the rest of you gentlemen, I understand your positions. Are you going to ask him or shall I ask him about that pitcher that you wanted Steinbrenner to sign? Do you have anything to do with him, Mr. Fernstrom?

Mr. FERNSTROM. Yes, sir. He is my chairman.

Senator BREAUX. We are talking about a young citizen of my state named Ron Guidry who has not been signed yet.

Senator STEVENS. We thought maybe we could get your chairman on the phone and we would get a little bit of action on this.

Senator BREAUX. I want to thank the witnesses I think you have done a good job. Mayor, we particularly appreciate you taking the time to come from as far as you have.

Before we excuse the panel, I want to recognize for any questions that he may have our good friend, Senator Brock Adams, who has discussed this issue with me on many, many occasions, and has a great deal of interest and knowledge about this.

Do you have any questions?

Senator ADAMS. No. Thank you, Mr. Chairman. We did have a chance to discuss this earlier today, the concern of course that we all have. And I agree with Senator Stevens, we all anticipated that this course was going to begin to run in this direction when we passed the 200 mile limit law many years ago when I was in the House.

I am hopeful that we will be able to determine how those that have invested, particularly in the joint venture area, are able to work out their problems as this transition occurs.

And I appreciate your courtesy. I have no questions of the witnesses. It is nice to see you all here. Thank you.

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Senator BREAUX. I thank you for being here.

I would like to welcome our next panel, which will consist of: Mr. Ted Kronmiller, representing the USA Coalition; Mr. Frank Bohannon, senior vice president, American High Seas Fisheries Association; Mr. Dennis Phelan, Pacific Seafood Processors Association; Mr. Terry Baker, president of the Alaska Factory Trawlers Association; and Mr. Thorn Smith, who is executive director of the North Pacific Fishing Vessel Owners Association.

Gentlemen, we are pleased to have all of you before the committee and are pleased to receive your testimony.

Mr. Kronmiller, do you want to go ahead and start. Ted, we welcome you and we are glad to have you here.

Let us get everybody kind of settled down so we can hear the witnesses. Mr. Kronmiller.

**STATEMENTS OF TED KRONMILLER, COUNSEL, ON BEHALF OF THE UNITED SEAFOOD AMERICANIZATION COALITION; FRANK BOHANNON, SENIOR VICE PRESIDENT, AMERICAN HIGH SEAS FISHERIES ASSOCIATION; DENNIS PHELAN, PACIFIC SEAFOOD PROCESSORS ASSOCIATION; TERRY BAKER, PRESIDENT, ALASKA FACTORY TRAWLERS ASSOCIATION; THORN SMITH, EXECUTIVE DIRECTOR, NORTH PACIFIC FISHING VESSEL OWNERS ASSOCIATION; AND STANLEY J. HOVIK, PRESIDENT, ARCTIC STORM, INC.**

Mr. KRONMILLER. Thank you. I will summarize my testimony and ask that the prepared text be included in the hearing record.

Senator BREAUX. Without objection.

Mr. KRONMILLER. I am pleased to appear today on behalf of the United Seafood Americanization Coalition, an organization committed to the full domestic development of the rich fishery resources within our 200-mile exclusive economic zone [EEZ].

The USA Coalition is comprised of individuals and companies engaged in the processing, harvesting, marketing, transportation, shipbuilding, supply, and other related sectors of the American seafood industry, and draws strong support from communities that benefit from, and in many cases depend upon, employment and commerce from our fisheries.

The Coalition is grateful to you, Mr. Chairman, and to members of the Committee for prompt consideration of S. 377. We appreciate the initiative taken by Senator Stevens in authoring this measure, and we strongly support what he and others in the Congress are seeking to achieve—true Americanization of our fisheries.

With the enactment of the Magnuson Fishery Conservation and Management Act in 1976, and by a series of amendments, including notably the American Fisheries Promotion Act, known as the Breaux bill, the Congress strongly encouraged domestic fisheries development. When the act was passed, foreign fishing fleets harvested and processed well over 1.5 million metric tons of groundfish annually in the waters off Alaska. Today American vessels take almost the entire harvest. Yet, foreign vessels still process the vast bulk of the catch.

Mr. Chairman, my prepared testimony details the productive capacity of foreign processing vessels which are authorized to operate

in our EEZ. In summary, I would simply point out that there is currently enough capacity in the 26 listed foreign surimi processing vessels, alone, to utilize almost double the annual pollock quota in the U.S. EEZ.

Moreover, another 235 foreign vessels have permits to process groundfish in U.S. waters. These fleets of processing vessels have little practical alternative to operating in our exclusive economic zone. There is, therefore, a strong incentive to reflag, and thus to avoid being displaced by new American processors and catcher-processors now entering the fisheries.

As you are well aware, most foreign processing vessels in operation today do not harvest fish directly, but instead, receive deliveries of fish from U.S. fishermen in joint venture operations. The expansion of joint ventures reflects the rapid development of our groundfish harvesting fleet, without a corresponding growth in our domestic processing industry.

Indeed, through joint ventures, foreign nations retain the employment benefits and profits associated with processing, while consolidating their international market power. In fact, many nations which process U.S. fisheries resources within our waters maintain trade barriers to our fishery products.

In the past, there was no compelling reason for foreign companies to reflag their vessels, because they were able to harvest or process large quantities of fish that were not utilized by the U.S. industry. However, domestic processors have recently expanded their production and have demonstrated that foreign processors cannot expect to operate under foreign flags for the indefinite future.

In 1988, domestic processing of groundfish may well approach 700,000 metric tons, severely cutting into the "surplus" fish that will be available to foreign operations. Yet, if these existing foreign vessels are merely reflagged as vessels of the United States, they will gain domestic priority access to the U.S. fisheries resources and directly compete with the growing fleet of U.S.-built and U.S.-manned processing vessels, catcher-processors, and domestic shoreside processing plants.

It is essential to understand that this will not merely provide essentially foreign processing and marketing operations with equal privileges. On the contrary, they will achieve a superior competitive position over bona fide American operators. Because many foreign vessels are low cost and fully amortized, their reflagging will provide a distinct cost advantage to foreign operations over their United States competitors, regardless of whether our American processors operate at sea or on land. I is even possible that reflagged vessels would be used to process not merely pollock, for example, but salmon and halibut, and would severely impact communities which depend heavily on long established land-based processing operations.

Mr. Chairman, the Congress has made it clear that joint ventures are transitional and that the full development of the processing sector should remain a central priority of our national fisheries policy. Nevertheless, there are some fishermen who find it very profitable to deliver their catch to foreign processors and view the development of the domestic processing industry with apprehen-

sion. There are some who would prefer to deliver their catches to reflagged processing vessels in order to preserve established commercial relationships with foreign interests. These fishermen would like to prolong joint venture operations, by maintaining the window through which foreign processors can be reflagged.

Mr. Chairman, the potential benefits from full domestic utilization, however, go far beyond the revenues this nation derives from joint ventures. For example, the joint venture fleet of 130 vessels employs about 700 crewmen and earns perhaps $150 million annually in revenues from deliveries of fish to foreign processors. On the other hand, the infant United States processing industry, which currently utilizes approximately ten percent of the groundfish resources in the waters off Alaska, already directly employs 2,000 citizens and expects sales of finished product in the neighborhood of $200 million in value. These figures do not take into account the transportation, marketing, supply and other sectors that benefit from domestic production. If foreign vessels are reflagged, there would be little chance for these groups to participate in the wealth of our fishery resources.

In point of fact, reflagging does not mean only lost opportunities for future domestic development. It means that cheap foreign-built vessels may drive bona fide domestic processors out of business.

Mr. Chairman, members of the USA Coalition have already invested $200 million in U.S.-built, U.S.-manned factory, trawler processing vessels. Our members commit $160 million annually to operations with U.S. crews. The shore-based plants currently processing groundfish have invested $50 million, and their operations are vital to the economies of many coastal communities. Reflagging places all this in jeopardy.

For these many reasons, the USA Coalition believes that a prohibition on reflagging of foreign-built vessels is essential if the U.S. fishing industry is to be truly Americanized. Mr. Chairman, as you pointed out in your opening statement, Congress enacted legislation in 1979 to require that fishing vessels operating in our EEZ be built in the United States. This was done to protect then-existing investments in U.S.-built fishing vessels and shipyards and to consolidate the congressional policy of Americanization. The Senate report on the matter made it clear that the same requirement would not then extend to processing vessels because, "Foreign-built vessels may be the only economical and feasible way of fully developing these underutilized resources in the near future.'

In point of fact, relatively little reflagging has occurred since that amendment in 1979, and the American industry has proved that it can economically and feasibly employ U.S.-built processor and catcher-processor vessels and shoreside facilities, if not stymied by unfair foreign advantages. It is time to close the window of opportunity to reflagged foreign processors, and to get on with the job that we now know our American industry can accomplish.

Thank you, Mr. Chairman.

[The statement follows:]

STATEMENT OF BART EATON, USA COALITION

Mr. Chairman: Thank you Mr. Chairman, members of the Committee. My name is Bart Eaton, of Trident Seafoods, Incorporated. I am pleased to appear before the

Committee today on behalf of the United States Seafood Americanization (USA) Coalition, an organizaiton committed to full domestic utilization of the rich fishery resources within our exclusive economic zone (EEZ). As members of this Committee are well aware, the waters off of Alaska contain vast quantities of groundfish which are still utilized by foreign operations. Species such as Alaskan pollock and Pacific cod are part of a renewable resource that has an estimated value of well over three billion dollars annually, the USA Coalition is comprised of individuals and companies engaged in the processing harvesting, marketing, transportation, ship-building, supply, and other sectors of the seafood industry who will benefit from full domestic utilization of our fishery resources. We also draw strong support from communities that benefit from, and in many cases depend on, employment and commerce from our fisheries.

The Coalition is grateful to the Chairman and Members of the Committee for their prompt consideration of this bill. We strongly support S.377 and believe that enactment of legislation to prevent re-flagging of foreign processing vessels is absolutely essential to assure true Americanization of our fisheries.

Since the passage of the Magnuson Fishery Conservation and Management Act ("Magnuson Act") the United States seafood industry has struggled to utilize fully our nation's fishery resources. Congress has strongly encouraged domestic development through the priority access system of the Magnuson Act. Under the Act, vessels of the United States are accorded a preference to harvest and process fishery resources within the EEZ, and foreign vessels are allowed access to fish that will not be used by the Untied States industry. Therefore, the definition of a vessel of the United States is critical for determining who will receive priority access to our fishery resources.

Unfortunately, the Magnuson Act defines the term "vessel of the United States" to include "any vessel documented under the laws of the United States." The vessel documentation laws allow a U.S. corporation to document a foreign-built vessel as a vessel of the United States, even if the corporation is foreign-owned. Therefore, any foreign operation may re-flag its existing processing vessels and thereby achieve U.S. priority to process fishery resources harvested in EEZ, state waters, or internal waters of any state.

When the Magnuson Act was passed, foreign fishing fleets harvested and processed well over 1.5 million metric tons of groundfish annually from the waters off of Alaska. During the last ten years, our industry has made tremendous progress in harvesting these resources. However, in 1987, foreign fishing companies will still process over 1.5 million metric tons of our fish, and will remain capable of processing all of the groundfish resources in the North Pacific Ocean.

The total surimi capacity of foreign processing vessels is estimated to be about 1,930 metric tons per day, which is the equivalent of 9,650 metric tons of raw pollock per day. Assuming 240 operating days per year, there is currently enough foreign surimi processing capacity alone to utilize 2,316,000 metric tons of pollock per year; almost double the annual pollock quota in the United States EEZ. Below is a list of the foreign vessels in the North Pacific currently processing pollock for surimi.

| Vessel name | Gross tonnage | Surimi capacity |
|---|---|---|
| Soyo-Maru | 12,951 | 150 mt/day |
| Tenyo-Maru | 4,239 | 65 mt/day |
| Tenyo-Maru No. 2 | 4,361 | 65 mt/day |
| Tenyo-Maru No. 3 | 4,357 | 65 mt/day |
| Tenyo-Maru No. 5 | 4,370 | 56 mt/day |
| Zuiyo-Maru No. 3 | 3,027 | 50 mt/day |
| Zuiyo-Maru | 2,456 | 50 mt/day |
| Mineshima-Maru | 21,259 | 200 mt/day |
| Miyagima-Maru | 6,301 | 140 mt/day |
| Yamato-Maru | 3,990 | 70 mt/day |
| Rikuzen-Maru | 3,989 | 70 mt/day |
| Haruna-Maru | 4,049 | 60 mt/day |
| Kongo-Maru | 3,249 | 60 mt/day |
| Koyo-Maru No. 3 | 3,431 | 60 mt/day |
| Tsuda-Maru | 4,317 | 70 mt/day |
| Chikubu-Maru | 5,431 | 70 mt/day |
| Ohtori-Maru | 5,431 | 70 mt/day |
| Akebono-Maru No. 77 | 3,800 | 70 mt/day |

| Vessel name | Gross tonnage | Surimi capacity |
|---|---|---|
| Kyung Yang Ho | 5,377 | 60 mt/day |
| Gae Cheog Ho | 28,000 | 150 mt/day |
| Nam Bug Ho | 5,549 | 25 mt/day |
| Tae Baek Ho | 5,510 | 25 mt/day |
| Dong San Ho | 4,348 | 60 mt/day |
| Shin An Ho | 5,689 | 80 mt/day |
| Oyang Ho | 5,377 | 40 mt/day |
| Dae Jin 52 [1] | 4,055 | 40 mt/day |
| Total | | 1,930 mt/day |

[1] To be converted in 1987

(Approximately 9,650 mt of raw pollock/day × 240 days = 2,316,000 mt/year.

I would like to emphasize that this list includes only vessels which produce surimi. It does not include another 235 vessels from China, Taiwan, South Korea, Japan, Poland, the USSR, and other countries which also have permits to process groundfish in the United States waters. Many of these processing vessels will have nowhere else to go. There is therefore a strong incentive to re-flag and thus avoid being displaced by new American vessels entering the fisheries.

Most foreign processing vessels in operation today do not harvest fish directly, but instead receive deliveries of fish from United States fishermen in "joint venture" operations. The expansion of joint venture opportunities has led to the rapid development of our groundfish harvesting fleet, without any direct benefit to our domestic processing industry. Indeed, through joint ventures, foreign processors have succeeded in retaining the employment benefits and profits associated processing while consolidating their international market power. In fact, many nations which process United States fishery resources within our waters maintain trade barriers to our fishery products.

In the past, there has not been any reason for foreign companies to re-flag their vessel as vessels of the United States, because they were able to harvest or process fish that were not fully utilized by the United States industry. However, United States processors have recently expanded their production and have demonstrated that foreign processors cannot expect to operate under foreign flags for the indefinite future. In 1988, domestic processing of groundfish may approach 700 thousand metric tons, severely cutting into the "surplus" fish that will be available to foreign operations. Yet, if these existing foreign vessels are merely re-flagged as vessels of the United States, they will gain domestic priority access to United States fishery resources and directly compete with the growing fleet of U.S.-built and U.S.-manned processing vessels and shorebased processing plants. It is essential to understand that this will not merely provide foreign operations with equal privileges. On the contrary, they will achieve a superior competitive position over bona fide American operations. Because many foreign vessel are fully amortized, a re-flagged vessel would provide a distinctive cost advantage to the foreign-operation over their United States competitor. During the summer months, it is even likely that these re-flagged vessels would be used to process United States salmon or halibut and would severely impact communities which depend on long-established and otherwise still expanding, local processing operations.

The Magnuson Act clearly identifies that joint ventures are to be transitional, and that the full development of the processing sector should remain the central priority of our national fisheries policy. In 1975, I testified before the Committee in support of the 200-mile bill as a commercial fisherman. Much of the recent development in domestic processing industry has come from fishermen like myself who have become involved in the processing of groundfish. Nevertheless, there are some fishermen who have found it very profitable to deliver their catch to foreign processors and view the development of the domestic processing industry as a threat to their foreign market. Indeed, there are some who would prefer to deliver their catches to "re-flagged" processing vessel, in order to preserve established commercial relationships with foreign interest. Those fishermen would like to prolong joint venture operations by creating a window through which foreign processors could be re-flagged.

The potential benefits from full domestic utilization, however, go far beyond the revenues this nation receives from joint venture operations. For example, the joint venture fleet of 130 vessels employs maybe 700 crewmen and will earn perhaps $150 million in revenues from deliveries of their fish to foreign processors. The infant

United States processing industry, which currently utilizes approximately ten percent of the groundfish resources in the waters of Alaska, already directly employs 2,000 citizens and expects sales of finished product in the neighborhood of $200 million in value. These figures do not include the transportation, marketing, supply and other industries that are benefited from domestic production. If foreign vessels are re-flagged, there would be little chance for these groups to participate in the wealth of our fishery resources.

If a period of time were offered to allow re-flagging, we would create even greater incentives for foreign operations to switch immediately the documentation of their vessels. With cost advantages provided by fully amortized, foreign-built processors, re-flagged vessesl would be in a position to under cut the bona fide domestic operators and drive them from the market. Although the joint venture operators who would like to see re-flagging might indeed argue that they wish to protect their markets, they must realize that if re-flagging is permitted domestic projects that would utilize the harvesting vessels for the maximum benefit of our domestic economy, will never get off the ground.

Mr. Chairman, members of the USA Coalition have already invested $200 million in U.S.-built, U.S.-manned factor trawler and processing vessels, and commit $160 million annually to their operation with U.S. crews. The shorebased plants currently processing groundfish have invested $50 million and if operating at full capacity would employ over 1,000 workers. This is just the start. Many seafood companies are waiting for the outcome of this legislation before making further investments. It is not an exaggeration to say that if we do not face unfair competition from re-flagged foreign processing vessels, the seafood industry for pollock may be fully Americanized by 1990.

For example, Trident Seafoods is prepared to invest in the construction and operation of a large fish processing vessel; however, architects' fees alone can cost over $250,000 for a ship of the scale which we are planning. Undertaking this type of project clearly requires a substantial commitment of capital. Trident Seafoods can not undertake these expenditures if the fleet of over 250 foreign processing vessels has the option of re-flagging and thereby achieving the domestic priority to process our fishery resources. Moreover, if re-flagging were to occur to any significant extent, it would not only stop future development, but also destroy efforts made in recent years by the United States fishing industry to utilize fully our fishery resources.

The bill before you today would prevent this from happening. S. 377 would create a ten year moratorium on the ability of oreign-built vessles to re-flag. We strongly support this measure. A few joint venture fishermen are asking for a "window" under which re-flagging will be allowed. By allowing a ten year period for United States operators to amortize their processing equipment without the threat of being undercut by fully amortized foreign-built vessels, the approach of S. 377 is much more practical.

S. 377 will also require that 100 percent of the seamen employed on a fish processing vessel be citizens of the United States. The USA Coalition supports the growth of employment opportunities for the citizens of our nation in the fisheries of our EEZ. We believe that American seamen should crew the U.S.-flag fleet; however, there is a legitimate case for allowing a few foreign nationals, serving as fisheries technicians, on each vessel.

In conclusion, the USA Coalition believes that legislation like S. 377, which would prohibit the re-flagging of foreign-built vessels, is essential if the U.S. fishing industry is to be truly and fully Americanized. In 1979, two years after the Magnuson Act become effective, it was discovered that a discrepancy in the Act allowed a foreign-built fishing vessel to be documented as a vessel of the United States and harvest U.S. resources within the newly created EEZ. To protect investments that were made by domestic harvesters and to provide a favorable investment climate, Congress quickly enacted legislation which extended the requirement that a fishing vessel operating out to 200 miles be built in the United States. We urge you to provide the same assurances to the seafood processing industry by moving toward prompt enactment of this legislation.

We are eager to render whatever assistance the Committee may need. Again, we appreciate the opportunity to testify on these bills, and we will respond to any questions you may have.

Senator BREAUX. Thank you, Mr. Kronmiller, for your presentation and excellent summary of the situation.

Next let us hear from perhaps another viewpoint, Mr. Frank Bohannon. Mr. Bohannon.

If you would pass the mike down to him, we would get Mr. Bohannon's statement at this time. Frank.

Mr. BOHANNON. Mr. Chairman and members of the subcommittee: I am Frank Bohannon. I have been a fisherman for over 25 years and am presently the owner and operator of the fishing vessel *Neahkahnie*. I am also the senior vice president and a director of the American High Seas Fisheries Association.

I am accompanied by Hugh Riley and Trefone Anguson, the Association's president and vice president for Alaska respectively, and seven other members of our Association. Mr. Riley and Mr. Anguson are here to assist me in responding to questions if necessary.

We have submitted a written statement of the Association's view on S. 377 to the subcommittee, which I will briefly summarize in my testimony.

Let me start by saying that as an American fisherman we appreciate your interest in our industry. We would also like to thank you for affording us the opportunity to present our views on S. 377. I am especially pleased to be here myself, because just over 48 hours ago I was onboard fishing in the Bering Sea.

Before addressing the specific legislation you are considering today, I would like to tell you something about our Association. The American High Seas Fisheries Association is an organization of owners and operators of U.S. fishing vessels who rely on at-sea processing markets for our catch.

At the present time, our vessels are participating in at-sea fishing activities with foreign processing vessels in the North Pacific Ocean and the Bering Sea. In 1987, the vessels of the entire U.S. high seas fleet will collectively harvest and deliver more than 1.5 million tons of groundfish, worth in excess of $225 million, to foreign processing vessels from Japan, Korea, the Soviet Union, Poland, and China.

The Association strongly supports Americanization of the U.S. bottomfish fishery and therefore wholeheartedly endorses the spirit and purpose of S. 377. However, for reasons which are explained in detail in our written statement, we are concerned that the proposed prohibition against reflagging foreign-built fish processing vessels may actually impede further progress toward Americanization.

If passed as now worded, we believe the reflagging provisions would eliminate one of the surest ways to accelerate the Americanization process, namely the cost effective acquisition by American interests of floating processing capacity.

For that reason, the Association respectfully urges that S. 377 be amended for a 5-year window during which U.S. fisheries interests, including but not limited to fishermen and processors, would have the opportunity to acquire and reflag foreign processing vessels.

At the same time, to ensure Americanization of our bottomfish fishery, we support the proposals which would impose American ownership and crewing requirements for U.S. fishing and processing vessels. Of course, any foreign-built vessel reflagged during the five year window we have proposed would remain ineligible to fish or engage in the coastwise trade.

The growth in U.S. groundfish harvesting capacity has been remarkable. In 1980, for example, U.S. vessels caught less than

20,000 metric tons of groundfish in the EEZ off of Alaska, compared to 1.4 million metric tons taken by foreign vessels.

In 1987, the North Pacific Fisheries Management Council estimates that U.S. vessels will harvest over 1.8 million metric tons of groundfish, virtually all of the available harvest.

Many of our members were pioneers of this industry. Over the years they have invested substantial amounts of human and financial capital to develop the state of the art, highly efficient and effective harvesting vessels which have all but Americanized the harvesting sector of this fishery. This has not been easy.

A number of our vessels are still trying to recoup the initial losses that were involved. Like all businesses, we must earn a profit to survive. In the fishing business, that means finding a market for our catch.

For a number of reasons inherent in the nature of the groundfish fishery, catcher vessels such as ours have not had ready access to American processing capacity. In the first place, U.S. factory trawlers which catch their own fish have no incentive or need to take our fish.

In the second place, U.S. groundfish processors are limited in number and are generally located so far from the fishing grounds where our vessels operate that delivery to them is too costly to be economical.

This is especially true in the Bering Sea, where virtually all of our 1987 fishing activity will occur. Our fishing operations follow the migratory concentrations of fish and are often conducted as far as 400 miles away from the nearest shoreside plant.

Even so, the total existing shoreside capacity on the Bering Sea can only accommodate deliveries from three or four fishing vessels. This means that well in excess of 100 high seas vessels would not have shoreside markets even if they could catch fish within a reasonable distance of town.

The dramatic Americanization in harvesting groundfish would not have been realized without the at-sea processing capacity now supplied by foreign fishing vessels. It is, however, now time for us to focus on a means available to Americanize the last vestige of the foreign presence in our waters, the at-sea processing ships.

We would like to replace those foreign ships with American vessels flying the American flag, owned by Americans and crewed by Americans.

Certainly, eliminating the reflagging option will not improve our prospects of increasing American at-sea processing capacity. Legislation cannot dictate the location of Bering Sea groundfish resources, nor decrease its perishability or increase the world price for the processed product.

Those realities are fixed and they drive the economics of the harvesting and processing industry. On the other hand, we can keep every viable option for increased Americanization open and contribute to the development of the U.S. industry, which is the aim of the Association's proposal.

Available U.S. groundfish stocks represent a tremendous opportunity to build a world-class fishing and fish processing industry. To do that, we will have to produce a quality product at world competitive prices, and the effort to do so will require the contributions

of everyone involved, namely the shoreside processor, the factory trawler owners, the at-sea processors, and the fish harvesters.

The groundfish fishery is a worldwide playing field. It is critical that limitations on what individual American players can do on their home turf not burden the entire industry's chance of successfully competing in world markets.

The association wants to work with our colleagues in the industry to increase the size, performance, and the competitiveness of the entire U.S. groundfish fishery.

Thank you again for including us in this hearing and for your thoughtful and courteous attention.

[The statement follows:]

STATEMENT OF FRANK B. BOHANNON, SENIOR VICE PRESIDENT, AMERICAN HIGH SEAS FISHERIES ASSOCIATION

Mr. Chairman and Members of the Subcommittee: My name is Frank B. Bohannon. I am the Senior Vice President and a Director of the American Seas Fisheries Association. I am accompanied by Hugh Reilly and Trefon Angasan, Jr., the Association's President and Vice President for Alaska, respectively, who are here to assist me in responding to questions if necessary. The Association would like to thank you for affording us an opportunity to present our views on S. 377.

Before addressing the proposed legislation, I would like to tell you something about us and introduce the association we represent. I am the owner and operator of the fishing vessel *Neahkahnie*. I have been a fisherman for 25 years. I started fishing at 20 and, over the years, have participated in the albacore, crab, shrimp, hake, yellowfin sole, cod, and pollock fisheries. Today, I am involved in joint venture fishing operations for pollock in the Bering Sea. Hugh Reilly has been involved in the groundfish fishery since 1978. He owns three harvesting vessels of his own and also manages a fleet of 12 vessels. All of these vessels rely on joint-venture operations for their employment. Trefon Angasan is the Chief Executive Officer of the Great Pacific Fish Company which owns the $3 million 124-foot stern trawler F/V *Great Pacific*. The *Great Pacific* is currently engaged in joint-venture fishing operations in the Bering Sea.

THE AMERICAN HIGH SEAS FISHERIES ASSOCIATION

The American High Seas Fisheries Association (AHSFA) was recently formed by owners and operators of U.S. fishing vessels who participate in joint venture activities with foreign fish processors in the North Pacific Ocean and Bering Sea. The purpose of AHSFA, which currently has 31 members, include the promotion of:

(1) Full Americanization of the U.S. bottomfish resource off Alaska;

(2) Sound conservation and management of the resource within the U.S. 200-mile exclusive zone; and

(3) Preservation of the American fisherman's freedom to sell his catch, at sea or ashore, wherever he expects the best return.

Our members' vessels are U.S. built, owned and manned and comprise the most up-to-date and efficient commercial fishing fleet in the world today. Each vessel represents a capital investment of between $1.5 million and $3 million.

We are proud of the significant contribution which joint venture vessels in general and our vessels in particular have made to the Americanization of the harvesting of U.S. groundfish. Collectively in 1987, the vessels of the U.S. joint venture fleet will harvest and deliver more than 1.5 million tons of groundfish, worth in excess of $225 million, to joint venture processing vessels from Japan, Korea, the Soviet Union, Poland and China.

AHSFA is committed to substituting a U.S.-owned, U.S.-controlled, and U.S.-crewed processing capacity for the foreign factory ships which provide our markets today. This is why we have asked to testify before you today on the pending legislation.

SENATE BILL S. 377

AHSFA strongly supports true Americanization of the U.S. bottomfish fishery and, therefore, wholeheartedly endorses the spirit and purpose of S. 377. However, for reasons which will be explained in detail later, we are concerned that the pro-

posed prohibition against reflagging foreign built fish processing vessels may actually impede further progress toward Americanization. If passed as now worded, the reflagging provision would eliminate one of the surest ways to accelerate the Americanization process, namely, the cost effective acquisition by American interests of floating processing capacity. For that reason, AHSFA urges that S. 377 be amended to provide for a five year "window" during which U.S. fisheries interests, including but not limited to fishermen and processors, would have the opportunity to acquire and reflag foreign processing vessels, subject to proposed American ownership and crewing requirements.

BACKGROUND: THE DEVELOPMENT OF THE U.S. GROUNDFISH INDUSTRY TO DATE

To understand AHSFA's position on S. 377 it is necessary to consider the development of the Alaska groundfish industry in general and the U.S. harvesting fleet in particular. In 1976 Congress established a 200 mile fishery conservation zone—now called the exclusive economic zone (EEZ)—within which the United States would exercise exclusive fishery management authority. In enacting the Fishery Conservation and Management Act of 1976 (later named after the former Senator from Washington, Warren Magnuson, and hereafter called the "Magnuson Act"), Congress recognized the need to (1) promote sound management and conservation of our fishery resources; and (2) encourage the development and Americanization of the U.S. fishery within the EEZ, including bottomfish off Alaska.

The Magnuson Act provided for the development, implementation, administration and enforcement of fishery management plans for the various fisheries within the EEZ. The Magnuson Act also created Regional Fishery Management Councils to prepare fishery management plans and identify the levels of fish which could be taken by the classes of vessels (fully American, joint venture and foreign) operating within defined area of the EEZ. The North Pacific Fisheries Management Council has responsibility for the EEZ off Alaska.

As indicated, one of the primary objectives of the Magnuson Act's conservation and management scheme was to encourage the development and Americanization of the underutilized Alaska groundfish resource. At the time the Magnuson Act was passed, foreign fishing vessels harvested virtually all of the lower-priced groundfish species (pollock, cod, flounder, yellowfin sole, etc.) in the EEZ off Alaska. U.S. commercial fishermen responded to the new Americanization incentives by pioneering new methods of harvesting groundfish and developing unique procedures for transferring their catch to processing vessels at sea.

The resulting growth in U.S. harvesting activity was remarkable. In 1980 U.S. vessels caught less than 20,000 metric tons of groundfish in the EEZ off Alaska compared to 1.4 million metri tons taken by foreign vessels. In 1987 the North Pacific Fisheries Management Council estimates that U.S. vessels will harvest over 1.8 million metric tons of groundfish compared to just over 50,000 metric tons by foreign vessels.

For a variety of reasons, U.S. harvesting capacity came on stream much more quickly than U.S. at-sea fish processing capacity. This dramatic Americanization in the harvesting of Alaska groundfish would not, therefore, have been possible without the existence of joint ventures between American harvesters and foreign fish processing vessels, which provided a market for the U.S. fishermen's catch. In addition to the dramatic increase in joint venture operations, a small but growing U.S. factory trawler fleet has been steadily increasing its share of the Alaska groundfish catch. The fifteen to twenty such vessels now operating off Alaska are capable of harvesting about 10% to 15% of the available fish. U.S. vessels fishing in joint venture operations take virtually all of the rest of the large volume, low-valued species.

ECONOMICS OF GROUNDFISH HARVESTING

Our members have invested substantial amounts of human and financial capital in developing state-of-the-art, highly efficient and effective harvesting capacity. Our expertise and foresight have helped to replace foreign fish harvesters in a very short time. However, like all businesses this investment must earn a profit for us to survive. In the fishing business that means finding a profitable outlet for our catch. The capacity to catch all the groundfish available in the EEZ off Alaska would be meaningless without a place to sell that catch at a profit.

For a number of reasons inherent in the nature of the groundfish fishery, catcher vessels such as ours have not had ready access to American processing capacity. In the first place, U.S. factory trawlers, which catch their own fish, have no incentive or need to take our catch. In the second place, U.S. groundfish processors are limited in number and are generally located so far from the fishing grounds where our

vessels operate that delivery to them is too costly to be economical or practical. This is especially true in the Bering Sea, where virtually all of our 1987 fishing activity will occur. It is not unusual, for example, for our fishing operations, which follow the migratory concentrations of fish, to be conducted as far as 400 miles away from the nearest shoreside processing plant. Even then, existing shoreside plants in the Bering Sea can only accommodate deliveries from three or four fishing vessels. That means that the vast majority of our fleet would not have shoreside markets, even if the fish could be caught within a reasonable distance from the shoreside plants.

The economics of this predicament are straightforward. First of all, most of the underutilized groundfish species are very low valued ($.06/lb. for pollock, for example), requiring large volume operations to generate adequate margins. Consequently, controlling opreating costs is essential to preserving what little margin exists. The world market sets the price, not the harvester and, unfortunately, the United States does not have a monopoly on groundfish resources. To compete successfully on the world market, U.S. groundfish must be competitively priced.

The difference in revenue for a harvester between delivering its catch to a processor at sea and one ashore is substantial. A hypothetical example will illustrate this. Assume the following facts: harvesting vessel #1 delivers its catch at sea; operates 200 days per year net of weather, maintenance and logistical downtime; can deliver 100 metric tons of pollock a day; and gets $125/metric ton for the fish. Harvesting vessel #2 delivers its catch to shore; operates 200 days per year net of weather, maintenance and downtime; takes 8 hours to reach shore, 8 hours to unload and 8 hours to return to the fishing grounds; can deliver the same quantity of pollock and gets a marginally higher price per ton.[1]

Vessel #1: 200 days/year; 200 days/year net of delivery time: 20,000 metric tons/year at $125 per ton; $2,500,000/year revenue.

Vessel #2: 220 day/year; 110 days/year net of delivery time; 11,000 metric tons/year at $175 per ton; $1,925,000/year revenue.

The 9,000 metric tons lost in delivery to shore represent $575,000 in lost revenue per year. That revenue can only be made up if the price per metric ton paid by shoreside processors is increased further to compensate for delivery or if shoreside processors make arrangements to take delivery of the fish on the fishing grounds.

As the example demonstrates, the ability to deliver the catch at sea is critical to a successful groundfish harvesting operation. In joint operations foreign mobile processing vessels, or "motherships", are able to take our catch on the fishing grounds, thereby eliminating the time and expense of returning to shore with each load of fish. Furthermore, the vast majority of joint venture vessels are physically incapable of safely and efficiently transporting large volumes of fish. It is one thing to tow a full cod end a mile or two to a processing ship and something entirely different to load fish onboard and transport it hundreds of miles to a shoreside plant. This problem is further compounded by the perishable nature of trawl-caught groundfish, especially pollock. Rapid deterioration in the quality of fish once it is caught dictates that it must be delivered and processed as quickly as possible.

The fact is that the objective of the Magnuson Act to increase American participation in underutilized fisheries has not yet been fully realized in the North Pacific Fishery. The North Pacific Fishery Council recognizes this. In its Policy on Joint Ventures and Allocations adopted in June, 1986, the Council stated:

"* * * it is in the greatest national interest for the resource to be harvested, processed, and marketed by U.S. Industry. However, until the domestic industry can harvest, process, and market the available groundfish resource, the Council will allow joint ventures between Americans and foreigners that will increase U.S. participation in the utilization of these resources."

AHSFA agrees that the greatest national interest is for the resource to be harvested, processed, and marketed by the U.S. industry and is proud to have played an important role in having accomplished the first part of the quest. We now want to participate in and contribute to the attainment of the second and third goals which the North Pacific Fishery Management Council has identified.

### ACCOMPLISHING THE OBJECTIVES OF THE MAGNUSON ACT

As mentioned earlier, the primary goals of the Magnuson Act are to conserve and manage the fisheries of the United States, to develop these fisheries consistent with

[1] The example assumes that viable concentrations of fish can be found within an 8-hour run to shore. Although that is possible during limited times of the year, our operations follow the migratory patterns of the fish and are often conducted hundreds of miles away from the closest available shoreside facilities.

those first two goals, and to fully Americanize commercial fishing, processing and marketing of the available fishery resources within the American EEZ.

In our view, the most logical and expeditious step in the effort to fully Americanize the groundfish fishery would be the acquisition of inexpensive, U.S. flag at-sea processing capacity for the U.S. harvesting vessels which are now solely dependent on foreign motherships. There is no other effective way to produce a 100% DAP result in the groundfish fishery--at least in the relatively near future.

The vexing question is how to acquire that at-sea processing capacity within the constraints of the existing groundfish market without putting the hard-won and expensive progress of the U.S. built, owned and operated harvesting fleet in jeopardy.

The risks associated with at-sea processing are high and the investment risks are accentuated by the highly competitive world market for processed groundfish. In addition, the U.S. fishing industry has only recently returned to profitability and vessels such as ours are still absorbing the high costs associated with their conversion to modern trawl vessels. While the economics of our business have shifted toward profitability recently, the industry is not in a position to shoulder a new, high cost, high risk venture from scratch.

In these circumstances, it makes sense to promote an environment which minimizes the risks and costs associated with starting up at-sea processing operations for American operators.

What are the options? In the first place, there are few, if any, existing U.S. built vessels capable of serving as motherships in the North Pacific. To the extent they are available, they are much more competitive as catcher processors and are being put to that use. Secondly, a new U.S.-built surimi processing vessel capable of handling delivery at sea of up to 400 metric tons per day could cost as much as $50,000,000. Such an investment would be prohibitively expensive and unacceptably risky in view of the current economic environment. On the other hand, foreign built vessels specifically designed for handling and processing our catch at sea may be available on the world market at reasonable prices. We should have the opportunity to explore that option.

In our view, access to proven, inexpensive, efficient foreign built processing vessels is one of the most attractive of our industry's limited options for achieving immediate gains in Americanizing the processing segment of the groundfish industry.

### AHSFA'S POSITION ON S. 377

As members of the Subcommittee are aware, S. 377 is one of three bills dealing with foreign fish processing vessels now before Congress. The other two, Congressman Young's bill (H.R. 438) and Congressman Lowry's (H.R. 1956), will be the subject of a hearing before three House Merchant Marine and Fisheries Subcommittees tomorrow. With your indulgence, we would like to briefly address the proposals contained in these three bills togehter since they deal with the same subject even if individually they suggest different solutions.

AHSFA believes that these bills contain, with some modifications we will outline in a moment, ideas that will benefit the groundfish industry in which our members earn their livelihood and which we can wholeheartedly support.

The bills touch on three subjects: the reflagging of foreign built fishing vessels; the ownership of reflagged vessels; and the crewing requirement on reflagged vessels. We would respectfully suggest that Mr. Young's ownership and crewing proposals be adopted and that S. 377 be amended to permit reflagging of foreign-built fish processing vessels by U.S. citizens for a period of five years.

AHSFA sympathizes with the concern expressed by those who fear "paper Americanization" [2] of the groundfish industry. It is for this reason that we support American ownership and crewing requirements. The first should prevent foreign fishing interests from using wholly-owned corporate subsidiaries in the U.S. to obtain preferential access to U.S. fishery allocations. The second wil promote the goal of Americanization by creating more jobs for Americans.

At the same time, however, we must be careful that fears of "paper Americanization" do not result in the adoption of measures which actually impede true Americanization of our industry, AHSFA believes that provisions requiring U.S. owner-

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[2] Under the current laws, it is theoretically possible for a foreign person or corporation to set up a wholly-foreign owned U.S. corporation, transfer a foreign built processing vessel to that U.S. corporation, redocument the vessel under U.S. flag, and then operate the vessel out of a foreign port with 100% foreign crew and still enjoy DAP priority status under the FCMA. This, the proponents of the pending reflagging legislation argued, would constitute "paper Americanization" of the industry while actual control remained in the hands of foreign interests.

ship and crewing will prevent paper Americanization, but that the prohibition against reflagging, unless relaxed as we suggest, will impede true Americanization.

HISTORY OF REFLAGGING UNDER U.S. LAW

U.S. law has permitted the reflagging of foreign built vessels for over 70 years. It must be remembered, however, that foreign-built vessels, even if redocumented under U.S. flag, remain ineligible to fish or to engage in the coastwise trade. Nevertheless, a number of such vessels have been reflagged and are in current use by U.S. shoreside processing companies in Alaska.

In 1979, Congress took specific action to address an anomalous U.S. Coast Guard ruling that would have permitted foreign-built vessels to be reflagged and used as fishing vessels in the then recently established EEZ. In clarifying its position on this issue, Congress made it clear that foreign-built vessels were not to be used as U.S. fishing vessels in the EEZ. (See Public Law 96-61).

In proposing the provision which was ultimately included in Public Law 96-61, Senator Magnuson specifically noted that, "[i]t bears repeating that this amendment does not apply to processing vessels. It applies only to vessels engaged in harvesting fish from our 200-mile limit or our fishing management jurisdiction." 125 Cong. Record 21743, August 1, 1979.

Indeed, the Report of the Senate Committee on Commerce, Scinece and Transportation on S. 917, which became Public Law 96-61, made it abundantly clear that there were strong policy reasons for retaining the right to reflag foreign-built vessels for use as processing ships in the U.S. EEZ.

"On the other hand, the United States does not have a similar longstanding policy as to processing vessels. Furthermore, because two of the purposes of the FCMA [the Magnuson Act] are 'to encourage the development of fisheries which are currently underutilized or not utrilized by U.S. fishermen' and 'to promote domestic commercial . . . fishing,' it is important to distinguish fishing vessels from processing vessels. Under the amendment in Section 2 of this bill, vessels engaged in the processing of fish within our fishery conservation zone would not be required to be U.S. built. Instead, existing law would remain in effect.

"The economics of developing the underutilized species, in particular, appears marginal at this time, and such development also appears particularly dependent upon the use of floating processors at sea. The committee does not believe that the amendment in Section 2 will have a substantial adverse impact on the development of our fisheries. However, the same confidence does not exist if the amendment were extended to apply to processing vessels, as foreign-built vessels may be the only economical and feasible way of fully developing these underutilized resources in the near future. The committee intends to support the potential for developing markets and purchasing sources for U.S. fishermen and thus did not include processing vessels in the amendment."

Not only was the reflagging possibility raised and considered in the content of the 1979 law, it was specifically anticipated and encouraged and the bill received wide industry support.

Even though this option has been available to American fishing interests, it has not been widely utilized. As noted above, some reflagged vessels are in use by U.S. shoreside processors in Alaska but, by and large, American interests have preferred to take advantage of flexibility offered by U.S. built vessels which, in addition to harvesting and processing fish at sea, can also participate in the U.S. coastwide trade. The U.S. factory trawlers are a prime example. In choosing to use U.S. built vessels, the factory trawler owners consciously opted not to use foreign-built vessels which would be limited to processing activities, but instead chose U.S. built vessels which could fish and engage in the coastwise trade as well. This was an informed business choice. AHSFA simply wants to ensure that the same choice remains available to U.S fish harvesters now that a fully integrated and Americanized harvesting, processing and marketing venture is finally within our reach.

In AHSFA's view, the ironic result of the proposal to prevent reflagging of processing vessels would be the indefinite perpetuation of our fishing vessels dependence on foreign flag processing ships for their markets. It would foreclose the one viable option which the joint venture vessels have to Americanize their segment of the industry in any sort of rapid fashion. The net effect of the reflagging prohibition would gradually force to the sidelines of Americanization the harvesting vessels operators who have pioneered the development of this fishery. Many of our vessels would then have to look at the already over-capitalized traditional Alaskan fisheries such as sablefish, crab and halibut as alternative sources of income. That will only

compound the problems in those traditional fisheries that the development of the groundfish fishery was encouraged to alleviate.

AHSFA strongly believes that its members should have the same business option (reflagging) that the factory trawler operators and shoreside processors have had for years. Our proposal to combine American crewing and ownership requirements with a limited reflagging window could enable the U.S. industry to Americanize this fishery virtually overnight.

Lastly, the reflagging of foreign-built processing vessels will not adversely impact the shoreside processors. In the first case, the reflagging option would be available to them as well as other segments of the industry. (As noted above, a number of U.S. processors are employing reflagged vessels in their current operations.) Secondly, for all the reasons described above, shoreside processing is simply not a realistic solution for the processing needs of our vessels. Either the price paid to the harvesters will have to nearly double to cover the time and capacity lost to delivery of the catch to the shore; or the shoreside processors will have to take delivery of the catch at sea. The competitive world market for processed groundfish will not pay for either of those additional items of expense. Finally, it should be noted that there are no requirements that U.S. shoreside processors utilize equipment or machinery manufactured in the United States. Indeed, modern processing facilities are virtually filled with foreign made processing equipment.

The American High Seas Fisheries Association is as committed as anyone to the full Americanization of the U.S. Fishery. We have pioneered the rapid Americanization of the groundfish fishery in the North Pacific and want to have the chance to participate in the next phase of the Americanization of that fishery. We have already demonstrated our willingness to accept risks and to develop new and efficient methods of harvesting fish. We have earned the right to create our own destiny with the same set of options which have been available to the other components of the U.S. industry for years.

The real challenge facing the U.S. groundfish fishery is to successfully develop the domestic industry. Available U.S. groundfish stocks represent a tremendous opportunity to build a world class fishing and fish processing industry. The effort to do so will require the contributions of everyone involved: shoreside processors, the factory trawler owners, at-sea processors and fish harvesters. AHSFA wants to increase, not limit, the options available to take advantage of an opportunity that can contribute significantly to investment and employment at home and U.S. trade earnings abroad.

Eliminating an option to increase at-sea processing capacity is not the way to go. Legislation will not change the location of the Bering Sea groundfish resource, decrease its perishability or increase the world price for the processed product. Those realities are fixed and drive the economics of the harvesting and processing industry in this fishery. On the other hand, we can adopt legislation that will keep every viable option for increased Americanization open and contribute to the development of the U.S. industry. That is the aim of AHSFA's proposals.

The groundfish fishery is a worldwide playing field. It is critical that adjustments to what individual American players can do on their home turf not burden the entire industry's chance of successfully competing on the larger world playing field. AHSFA wants to work with our colleagues in the industry to increase the size, performance and competitiveness of the entire U.S. groundfish fishery.

Thank you again for including us in these hearings and for your thoughtful and courteous attention.

Senator BREAUX. Thank you very much, Mr. Bohannon, for your presentation.

Let us see. Mr. Smith, do you want to go ahead and take your testimony now?

Mr. SMITH. Thank you, Mr. Chairman. Mr. Chairman and members of the subcommittee:

My name is Thorn Smith. I am the executive director of the North Pacific Fishing Vessel Owners' Association. Seated to my right is Mr. Stanley Hovik, a member of our board. Behind us is Mr. Arne Adland, our president. They will be prepared to respond to any questions you may have in their individual capacities as fishermen and as investors in our seafood industry.

The NPFVOA is a trade association representing the owners and managers of large fishing vessels engaged in trawling and crab fishing off Alaska. Individuals within the association own trawlers, factory trawlers, crabbers, or combinations thereof.

Our harvesters deliver to foreign and domestic processors at sea and to domestic processors on shore. As you may imagine, with this diversity of interests comes a diversity of opinions regarding the reflagging and use of foreign-built processing vessels in our fisheries.

The membership of our Association is unanimous, however, in the view that decisions are needed now. Unresolved questions that are at issue today must be addressed and decided promptly. Only after these uncertainties are dispelled will our industry know where to invest in order to bring about the full development of United States fisheries.

With regard to ownership and control of these vessels, one of the bills now under consideration in the House requires that if a vessel is owned by a corporation, the controlling interest in that corporation must be owned by citizens of the United States. The NPFVOA does not want foreign interests to control our fisheries, and for that reason we would not oppose reasonable measures which assure United States control. We are uncertain, however, whether such measures could be effectively enforced and wonder what impact they would have if they were applied to existing U.S. factory trawlers and shoreside processing plants.

The law now in effect requires that 75 percent of all seamen, including factory workers, be United States citizens. These are individuals working, of course, on processing vessels. It is our view that in order to produce quality products at prices which are competitive in world markets, we will need a certain amount of foreign technical assistance. Current law allows minimal flexibility in manning, and we believe that it should be retained.

With respect to the use of foreign-built processors in United States fisheries, our membership is divided. I would like to summarize briefly the arguments which are made in support of these differing points of view.

Some of our members who rely primarily on at-sea markets favor limited reflagging of foreign processing vessels. I have to add at this point that we are not really certain just how this would be accomplished equitably. These people make the following arguments.

First of all, with respect to investments, there are, as you have heard today, some 130 large United States trawlers which currently rely on joint venture markets. The owners are concerned that the value of their vessels will be lost or will be greatly reduced unless a certain amount of reflagging is allowed to provide continuation of their markets. Their chief concern, of course, is that they do not see alternative markets in the immediate offing.

Most of these vessels were built as crab vessels. They are really not large enough to deliver fish to shore plants. U.S. processors do not appear to be building vessels which will purchase fish at sea, and there are no longer alternative fisheries which could absorb all of the effort of a displaced joint venture fleet.

With regard to foreign control, they argue that foreign investors have substantial interests in shore-based plants and they ask the question: Why should we apply a different standard at sea?

With regard to conversion of American vessels overseas, they observe that current law allows United States vessels to be extensively refitted overseas, with foreign financing, and ask whether this is really so different from reflagging a foreign-built vessel.

Finally, they observe that only a limited amount of reflagging is proposed, not the sort of wholesale rush which we all agree would not serve the best interests of our developing United States fisheries.

Other members, including those who have invested or who intend to invest in United States-built vessels for the processing of fish, disfavor the use of reflagged foreign vessels for that purpose. They make the following arguments:

Overcapitalization. The sudden conversion of a substantial portion of the foreign processing fleet would immediately produce excess processing capacity and would likely stimulate the construction or conversion of additional, unneeded harvesters, making profitable operation difficult for everyone.

They argue that the U.S. investment community has been reluctant to finance the U.S. processing operations because of the potential entry of foreign-built processing vessels.

This of course leads to a concern regarding competition. The introduction of large amounts of fully amortized foreign processing equipment into the groundfish fisheries would place domestic groundfish processors at a competitive disadvantage.

There is concern with respect to vertical integration. There is some evidence that foreign owners of foreign flag processing vessels have begun to build, convert, or purchase U.S. harvesting vessels to work with their processors, in direct competition with our members' vessels. Reflagging of those processors would provide further incentive for this sort of vertical integration, conceivably eliminating markets for the U.S. harvesters.

Finally, they argue that extensive reflagging would allow continued foreign domination of U.S. groundfish fisheries, contrary to the intent of the Magnuson Act.

In conclusion, the membership of the NPFVOA has not been able at this time to reach a clear consensus regarding the reflagging of foreign vessels for use as processors in United States fisheries. Some favor limited reflagging, while others are altogether opposed to it.

We are unanimous, however, in the view that U.S. citizens should derive maximum benefits in the form of control and employment in our developing seafood industry. We disfavor the status quo, which permits unlimited reflagging, and we look to Congress to act now to dispel the uncertainties which discourage investment in and full development of our fishery resources.

Thank you.

Senator BREAUX. Mr. Baker.

Mr. BAKER. Thank you.

My name is Terry Baker. I am president of Arctic Alaska Seafoods. I am testifying today as a representative of the Alaska Factory Trawler Association [AFTA].

We are deeply appreciative of the opportunity to be before the Committee today, as our members have very strong views on the matters before you.

The Alaska Factory Trawler Association represents companies which operate U.S. flag, U.S. built floating processors, which process 80 percent of the North Pacific bottomfish which are processed by Americans today. The companies which formed AFTA are the ones which undertook the challenge to develop America's bottomfish resources. Our economic and growth statistics are attached to this statement.

ECONOMIC ASPECTS OF U.S. FACTORY TRAWLER DEVELOPMENT

| | JV'S now | U.S. factory trawler fleet growth | | | |
|---|---|---|---|---|---|
| | | Now | 1988 | 1989 | Full |
| Number of vessels | 130 | 20 | 30 | 40 | 80 to 100 |
| Capital Investment | [1] $200 | [1] $200 | [1] $350 | [1] $500 | [2] $1 |
| Number of employees | 750 | 1,500 | 2,500 | 3,500 | 8,000 |
| Sales | [1] $125 | [1] $160 | [1] $300 | [1] $450 | [3] $1 |
| Tons harvested | [4] 1 | 350,000 | 570,000 | 950,000 | [4] 1.8 |

[1] Millions of dollars.
[2] Billion-plus dollars.
[3] Billion dollars.
[4] Millions.

The U.S. bottomfish processing industry is just now becoming established. We are now asking the Congress to address an issue which will be instrumental in shaping the growth of American business in this new industrialized fishery.

As was envisioned by the MFCMA, American processors are not displacing the foreign processing vessels, which until now have profitably operated as directed foreign operations and then, as mother ships in joint venture operations. This rapid expansion has created vessels to U.S. flag. If this is permitted, many of the U.S. companies, which only now are getting established will find the priorities and preferences of the Act to be but mere words.

It is the recent successes that domestic processors, afloat and ashore have achieved, which bring the reflagging issue to prominence at this time.

Had not the original ventures in American bottomfish processing been successful, this matter would not be before you.

Now these same companies and others are waiting to see whether the next processing vessel that they invest in will be built in the United States or whether they will be forced to form alliances with the major foreign fishing companies so that they may have access to these cheaper capitalization methods.

The solution: AFTA seeks to have the reflagging issue addressed by the statutory modification of the "place of build 'requirement, and not by altering the existing requirement for ownership for foreign ownership or manning.

This is the most direct and cleanest way of assuring rational and steady growth to Americanize the processing industry.

We support limiting the use of hulls to those which are American built, because it goes directly to the root of the problem. It eliminates any possibility for the tremendous number of vessels which are poised for flag transfer to rush into our fisheries.

If no legislation were passed, thereby permitting such vessels to become U.S. processing vessels, the following impacts would result:

The foreign mega-companies and State-owned companies would continue domination of the North Pacific groundfishery by reflagging their vessels.

Such companies would have the edge over developing U.S. processors because these vessels would be fully amortized, as contrasted with the new American groundfish processors. Their operating costs would be lower because of this. These large foreign companies could easily absorb the resultant decrease in earnings than the upstart small American companies. The Americanization of the bottomfish processing industry, as envisioned by the MFCMA would stall or be reversed.

Potential for overcapitalizing our groundfish fisheries would greatly be enhanced because of the transfer of foreign factory vessels from presently overcapitalized foreign fisheries. That foreign problem would then become a domestic problem.

The $300 million which our domestic processing industry has committed to groundfish to date would be placed in jeopardy.

In 1988, the American fleet of 30 processing vessels will process 650,000 metric tons. Shore plants should process 150,000 metric tons. Thus, even if no further commitment to capitalizing processing facilities is made, Americans will be processing half of the North Pacific resource.

Each large size Japanese surimi processor which is reflagged would require up to 100,000 tons of North Pacific resource. Thus, it would require only eight such vessels to equal the present U.S. capacity. Six more of these vessels would account for the use of the entire resource.

Failure of the Congress to prohibit reflagging may contribute to another problem of overcapitalization which is here today. To open the doors to foreign factory vessels which can not fish will spur an increase of joint venture harvesting vessels, which already exist in excess numbers.

The new American groundfish processing industry could not withstand the shock of a sudden infusion of foreign vessels if reflagging is permitted.

Should reflagging be permitted and there were to be a rapid acceleration in the number of U.S. flag processors, existing U.S. groundfish processors could face a severe labor shortage and a diffusion of our good laborers, which we have taken the pains to train, to the new influx of foreign vessels.

Sudden increases in product availability to domestic markets which we have created and nurtured would create serious marketing problems for our companies.

If legislation is not passed now, the stampede to reflag will seriously disrupt the measured growth of our industry, which is occurring now. Frankly, the industry needs time to deal with its own growth at a reasonable pace. While the successes in the bottomfish processing have been reported to be a boom, it is more accurately described as an upswing which is very positive and was very much needed. It should not be magnified unrealistically by the reflagging of foreign built vessels.

The two other methods which have been suggested as a remedy to the problems are foreign ownership limitations and manning restrictions. AFTA feels that both of these remedies are not tailored

to the problem, would be over or under-inclusive or both, and would therefore be undesirable.

While control of foreign ownership would be a step toward controlling domination by foreign mega-companies, everyone knows that there are ways for foreign capital to evade these requirements.

Nor would this address the potential overcapitalization if the foreign vessels were reflagged to a domestic owner.

Thus, we believe that the use of the "place of build" restriction better solves the problem.

Manning; AFTA believes that the U.S. flagged vessel operating in the U.S. FCZ should be manned by American crews. This is basically what the law requires now, although some of the crew may be foreign once cleared by the U.S. Department of Labor.

The loophole which permits a totally foreign crew when vessels sail from a foreign port needs to be addressed. To modify this requirement, to require 100 percent U.S. citizens would not address the problems of overcapitalization and foreign domination.

AFTA supports the status quo with respect to manning and would support closing foreign port loophole.

The concept of a window to permit reflagging for a limited period would act as an invitation to reflag. It would be the worst of actions by the Congress.

For the reasons stated above we ask the committee to stop reflagging now. The alternative is to put the FCMA policy of full utilization of our bottomfish resources by Americans in serious jeopardy.

Further, the $300 million invested by Americans to further the vision of the FCMA would then be lost.

We understand the desire of some of the harvesters to foster a regime for factory vessels which are prohibited by law from fishing. It makes for a convenient market. But it ignores the future prosperity which awaits the Alaska and Northwest fishery from the development of the U.S. processing industry.

No one can deny that the principle behind joint ventures, as enunciated in the Processor Preference Amendment to the FCMA was to provide an interim measure for development.

U.S. processors need the action of Congress to secure the new prosperity that we have finally found.

Thank you for your attention.

Senator BREAUX. Thank you. Next we will have Mr. Dennis Phelan.

Mr. PHELAN. Good morning. My name is Dennis Phelan. I am vice president of the Pacific Seafood Processors Association. I'm here in place of Barry Collier who is the president of Pacific Seafood Processors. Barry had intended to be here, but his wife gave birth to their first child on Sunday, and not surprisingly he thought he should stay out there.

Before beginning I would like to give a brief description of the membership of PSPA. The companies which comprise the association operate in Oregon, Washington, and Alaska and produce a wide variety of seafood products for domestic and foreign markets. The principal species processed by our members are salmon, crab, halibut, herring, shrimp and bottomfish. Several members are also producing surimi.

When considered as a group, the members of the Association produce approximately 85 percent of the domestically produced seafood products originating in the Northwest and Alaska.

In the debate on reflagging, many people have been asking why the issue has arisen so suddenly and why it is so urgent when only a few foreign vessels have ever been reflagged.

The answer to this question lies in the rapidly changing economics of North Pacific groundfish.

Ten years ago, the entire catch was taken by foreign fleets and the commercial value of pollock and cod was relatively low.

Now, however, worldwide demand has caused the price of pollock and cod products to skyrocket. In some forms these products are selling for 300 percent more than they were just two years ago.

A second factor is that foreign fishing nations realize that their days of access to unprocessed fish in the U.S. Exclusive Economic Zone are numbered unless they act quickly.

U.S. processors are now utilizing about 15 percent of available groundfish stocks, and virtually all of the harvesting is being done by U.S. vessels. The foreign nations know that they must act while they still have processing and marketing control over the vast majority of the North Pacific groundfish resource.

It appears that one of the few options open to them is to reflag their vessels as U.S. processors and continue their joint venture purchases as domestic processors.

This realization is just now sinking in, and it is the bottom line reason why a longstanding provision of U.S. law is only now being seen as presenting a serious threat to our continued fishery development.

Another reason why domestic processors have progressed is the help we have received from Congress and the Administration. Just as political pressure was used to get joint ventures off the ground in the late 1970s and early 1980s, it has been political support which assisted the processing sector in its effort to Americanize.

With your assistance we have been able to open new markets for our products, and this has resulted in a sharp influx in investment.

What is likely to happen if the law is not changed? All a foreign corporation would need to do would be the following: set up a U.S. corporation, install U.S. citizens as chairman and president and have a majority of the board of directors be American citizens.

Once this is accomplished, the foreign corporation would then be able to reflag its vessels as United States and qualify them as domestic processors under the terms of the FCMA.

They would then be able to receive fish in the FCZ and enjoy the same Magnuson Act privileges as existing American owned processing corporations.

In addition, if these newly reflagged vessels were to be homeported in a foreign nation, they would not need to comply with the existing 75 percent U.S. crew requirement, as long as they never put into a U.S. port.

However, the main advantage they would have is that they would be competing with comparatively low cost vessels, many of which carry no debt burden.

As you can imagine, the advantages of this situation to our foreign fishing competitors are considerable.

The association strongly supports the provisions of the Stevens/Murkowski bill with one exception. We feel that the current law requiring 75 percent U.S. crew is sufficient to provide job protection for U.S. workers, while at the same time allowing the presence of foreign technicians and advisors who are sometimes required onboard processing vessels.

The only other change which may be desirable would be to prohibit the operation in the FCZ of U.S. flag vessels which are home ported overseas, and use foreign crews.

This change has been proposed in Congressman Young's bill, H.R. 438.

There is another very serious negative outgrowth which we foresee that has not been extensively discussed so far in the debate. This is the impact which newly reflagged vessels would have on traditional fisheries.

As pollock and cod become fully utilized we are likely to see an excess of both harvesting and processing capacity if an influx of cheap foreign built vessels is permitted.

The question then becomes, what happens when the groundfish supplies are insufficient to keep this new fleet busy? The answer is that they will occupy their time by moving into species such as salmon, black cod, halibut, crab and other fully utilized fisheries. I don't think anyone would argue that these fisheries need additional investment in either harvesting or processing capacity. But that is exactly what will happen if this legislation fails and reflagging becomes a popular option.

The members of PSPA know all too well how difficult it is to compete on domestic and world markets which are largely dominated by foreign corporations. We hope that our government will at least permit us to gain control of our own domestic resources during this early stage of our development.

The long awaited investment in processing capacity is rapidly coming on line. This flow will most certainly stop if the law is not changed.

In closing, let me say that we thank Senators Stevens, Breaux, Murkowski and the other members of the Committee for your prompt attention to this matter. The association and its members stand ready to work with you so that we can resolve the issue as quickly as possible. Thank you.

Senator BREAUX. Thank you very much. We appreciate your being with us.

Back in 1979 when Congress addressed this question of reflagging, did we not make a specific determination back then that we were going to prevent reflagging of fishing vessels, but that we would continue to allow the possible situation of reflagging of the processing vessels because I would imagine at that time we felt that capacity was not there?

Why would not that be a good rule, or a good basis for today's action?

Mr. KRONMILLER. I referred to that legislation in my statement. In that Senate report, it was made clear the Congress was concerned that it was not yet proved that the United States industry could economically or feasibly put together a U.S.-built fleet of processing vessels and catcher-processors. Indeed, there was some

concern that the only economic and feasible way of developing the underutilized resources in the near future, as the report put it, was to go ahead with reflagging of foreign built processing vessels.

However, history has shown, as I pointed out earlier, that there has been very little reflagging, because there has been very little incentive to reflag.

On the other hand, the U.S. industry has proved that it can afford to build in the United States the processing vessels and the catcher-processors we need to ensure full utilization by the American industry of those resources.

So I think the circumstances are not the same as they were in 1979. They are quite different. And it is now time for us to make sure that the investments made by Americans who proved that they can do it with U.S. built vessels are not undermined by reflagging of foreign-built vessels.

Senator BREAUX. I get the impression that Mr. Phelan does not agree with you on that when it comes to the North Pacific groundfish, because he points out in his testimony that U.S. processors are now utilizing only 15 percent of available North Pacific groundfish.

He makes the argument that we have a lot of processing U.S. capacity, and you are pointing out that it is not very much, that 85 percent apparently is still foreign.

Mr. PHELAN. The situation as Mr. Baker mentioned, is that investments are now being made because of the recent change in the market situation. The price people are getting for ground fish products, combined with more favorable exchange rates have made the fishery much more profitable. Basically, we've had a situation for the last decade where everybody kept asking where is the processing capacity? Finally, the processing capacity is coming on line. Investments are being made.

As Mr. Baker estimated, next year the 15 percent figure will be at 50 percent.

Senator BREAUX. Why should we just wait until the U.S. processing capacity reaches a point where they can handle the resource and then prevent foreigners from being in the business?

Mr. PHELAN. If the foreigners are able to come in now, you will not see the additional investment on the U.S. side.

Senator BREAUX. How do we respond to the U.S. harvester who wants to sell his catch in this particular area by telling him we are not going to allow the foreign processor to reflag and come in, but we are going to make him use a U.S. processor. But then we have to tell him we only have the capacity to do about 15 percent.

It does not sound like we are giving him a very good deal.

Mr. PHELAN. I'm not sure I understand.

Senator BREAUX. If the U.S. processor in this particular example has only 15 percent available capacity in the North Pacific groundfish area, we are setting up a standard that prevents a foreign processor from coming in and the U.S. processor only has 15 percent capacity.

Mr. PHELAN. We're not saying there won't be a market.

What we're saying is the that existing joint ventures will be able to continue. The joint ventures will continue until such time as there is domestic processing capacity to utilize all of that fish.

Senator BREAUX. I know the answer, I am just saying we ought to put it in the record.

What you are saying is the U.S. harvester, the fisherman is still going to have the joint venture processing capacity available, even with the statute being passed.

Mr. PHELAN. Yes, and that's exactly as the act has been intended to work.

Senator BREAUX. Mr. Bohannon, I appreciate your testimony where you express your opposition to the legislation that is pending.

I noted that during your testimony you spoke about, on behalf of the American High Seas Fisheries Association, support for full Americanization of the U.S. bottomfish resources off of Alaska, and that the association strongly supports true Americanization of the U.S. bottomfish fisheries, and therefore wholeheartedly endorses the spirit and the purpose of S. 377.

But I note that some of the information from the association seems to be in conflict with this Americanization concept in the sense that membership in your association in itself is statutorily limited to those vessels that receive 75 percent of their revenues from deliveries of fish to Japanese processors.

It seems that while you are talking about the Americanization, you have an association that does not even allow someone to belong to it unless 75 percent of their fish are sold to foreign processors. I would like to try and rationalize that problem that I have.

Mr. BOHANNON. I believe that came from a letter that was in our formative stages back in either December or January.

Senator BREAUX. It was February 1987.

Mr. BOHANNON. It was before the fleet sailed.

Senator BREAUX. It was only a couple of weeks ago.

Mr. BOHANNON. When I got back from fishing in March, first of all we are in a formative stage. We started this thing in January namely because of every time we have sailed the last 3 or 4 years it seems like there is new legislation trying to force us into another corner.

I haven't seen that piece of paper that you are looking at. I remember a letter that went out from one of the people that was subsequently elected an officer to his own fleet.

Senator BREAUX. I am not trying to catch you in any kind of trap.

Are not your articles of incorporation limited to——

Mr. BOHANNON. No. We changed that and we changed it within the first two weeks of the bylaws.

Before we voted those bylaws and articles of incorporation in, they were changed.

Senator BREAUX. Is Mr. Riley here?

Mr. RILEY. Yes, sir.

Senator BREAUX. Maybe Mr. Hugh Riley, who I guess is president of the association, the American High Seas Fisheries Association.

Mr. RILEY. That's correct.

Senator BREAUX. Is your membership limited to fishermen who sell to foreign processors?

Mr. RILEY. No. They were drafted bylaws as the Association was unfolded. But before they were voted in there wasn't any kind of final form, it was reviewed and felt the best interests of our industry would be served by opening up to all who rely on deliveries for their markets.

Senator BREAUX. There is no restriction now?

Mr. RILEY. No. We have solicited membership from a wide range of vessels from states in the northwest who deliver in all the countries involving joint operations.

Senator BREAUX. I guess the document that I have listed from you to all Westwood catcher boats and their owners talking about your articles of incorporation that listed as being those members who received 75 percent of their revenues from deliveries of fish to Japanese processors at sea, that is not correct?

Mr. RILEY. That is not correct. That was the status of the articles as they were drafted at that time. That was to find out where the organization wanted, the group who initiated this and the potential members wanted to go with the organization.

Senator BREAUX. Mr. Bohannon, what about the argument that I guess Mr. Kronmiller and Mr. Phelan together were trying to make, because I think both Senator Stevens and I are both interested in protecting the interest of the joint venture fishermen.

We do not want to take a market away from them. I think that would be the last thing that any of us would want to do.

But at the same time, we want to work toward the Americanization of the industry, both from a harvesting standpoint and from a processing standpoint.

Their argument is if you prevent the reflagging, you are going to encourage domestic processors to come into business.

Secondly that fishing vessel owners would also be able to participate in selling to these new processing vessels that would be built and utilized in the area that you fish in.

Third, we could also make the comment that I would imagine the vessel owners could use capital construction funds, CCF deferral of income to themselves, get into this new venture of building an American processing vessel to serve your needs.

Would all of that not be sufficient to provide your association members with the market that they need?

Mr. BOHANNON. Mr. Chairman, number one, we haven't seen a domestic processing market processor on the high seas that's been a viable operation yet.

Number two, our capital construction funds have very little money in them, if any. Most of us pioneered this industry, got in at the beginning, spent a lot of money on it, we had very few markets. Right now we are recouping losses or just barely breaking even. There were profits last year, everybody was talking a lot of money, there weren't. We are coming to the point now where possibly we can go the next step and make investments in some of these bottoms. But we need, there's not a whole lot of money on our side of it to go in and make the next step.

But I think the bottom line is that there's no markets on the ocean right now to accept our fish that we can catch and have proven that we can catch.

Senator BREAUX. Do you have any problem from a sense of fairness with what Congress has done in the sense that Congress has made a specific determination that you as a U.S. vessel owner-catcher, harvester is going to get a preference.

That preference is apparently working very, very well in the sense that when we wrote that law back in 1976 the market was completely dominated by foreign harvesters. Today just the opposite is true because of the law.

That priority, that preference that we give to American harvesters is in place and has worked very effectively.

Now the processors are saying we would like the same treatment that you got back in 1976. We would like to have a preference because we are U.S. processors.

What is wrong with that?

Mr. BOHANNON. Nothing.

Senator BREAUX. That is what the legislation does, does it not?

Mr. BOHANNON. I believe most of the gear that we are seeing on the ground up there is catching its own fish. We are proposing a processing facility that doesn't catch fish.

Senator BREAUX. Would you support legislation that would change your preference by allowing foreign harvest vessels to be reflagged and come in and catch the fish? Vessels that are built overseas at a much less cost than your vessels are and get a preference to those fish in that area?

Mr. BOHANNON. To catch the fish?

Senator BREAUX. Yes.

Mr. BOHANNON. No. Because we have already made the investment over here. We have $200 or $300 hundred million dollars already invested in a fishery.

Senator BREAUX. I am getting back, at least I feel that you are saying it is fine for you to have a preference that prevents any foreign reflagging of a harvest vessel to come in. That is good for you and good for the industry.

But when Congress says we want to extend that same preference situation to prevent foreigners from reflagging a processing vessel, we do not want that. That is not good business.

Mr. BOHANNON. I think we are talking two different things right here. Yes, we would like the preference over the foreigners.

Senator BREAUX. And that is what the processors want.

Mr. BOHANNON. And we'll accept that. But now are you putting us in the same role as the foreigners in putting other Americans over the top of us?

Senator BREAUX. No, I am not talking about that. I am saying a situation, if we wanted to have the situation that you apparently oppose which would be an amendment to the law that says a foreign harvesting vessel built overseas in a foreign yard would have the right to reflag merely by changing some papers and come in and get the same preference as a foreign built vessel that you have as a U.S. vessel, you do not like that idea.

And yet for the processing, you are saying it is totally appropriate for a foreign built processing ship to come in with the same little paper change and to be reflagged and to get the same preference that a U.S. processing vessel would get.

That is the position.

Mr. BOHANNON. They are not getting the same position. The foreign vessel can not fish.

Senator BREAUX. That is the point I am trying to make. We have in the laws of the United States a prohibition against a foreign vessel coming in and getting a preference.

That is the protection you have. That is the Americanization of the U.S. fisheries that you strongly support. But you only support it for harvesters apparently, because we are talking about saying to a foreign built processing vessel that they should not be able to come in and reflag and fish alongside of you at the same preference. Because it would be at your disadvantage, and you do not like that.

Mr. BOHANNON. In 1976 I believe that was the case.

Senator BREAUX. In 1979 we changed it. And now we want to make sure we change it for processors as well. And you say, oh no, I do not want to do it for them. That is what I am getting.

Maybe somebody can convince me, but that is my perspective of what you are saying.

Mr. BOHANNON. Mr. Chairman, in 1979 half of our investment in the catcher fleet that is presently working today was already made.

You changed the rules after we already spent——

Senator BREAUX. But let me tell you, in 1976 there was not much of an investment in the harvesters in that area until Congress came in and said we want to make this an American industry. Because of the U.S. Congress and the law and this man over here's work in helping the Alaskan fisheries, because of the law, you were able to come in and buy a U.S. vessel and fish out there and have your preference, because the law said we were getting rid of the foreigners.

That is why you made the investment, because you had a preference. Rightfully so.

Mr. BOHANNON. That's right. In 1977 I invested $2.5 million dollars in a vessel.

Senator BREAUX. Because of a 1976 law I would say.

Mr. BOHANNON. And we included the processors in it. But those were not easy days. We did not have the markets. We went out and we ground out the markets and put them together and everything.

Senator BREAUX. Sure, with the law, let's be fair about it.

If you did not have the law in 1976 you would not have been able to make your investment successfully in 1979.

Mr. BOHANNON. It was not a successful investment. I just came out of a 4-year Chapter Eleven.

Senator BREAUX. Think of how bad it would have been without the law.

Mr. BOHANNON. Without the law?

Senator BREAUX. You could not have done it at all.

Mr. BOHANNON. We would not have gotten started.

Senator BREAUX. Of course not.

Mr. BOHANNON. But we would not have made the investment in the first place.

Senator BREAUX. Senator Stevens.

Senator STEVENS. Could we take about a 5-minute break here, we have been going on for a long time.

Senator BREAUX. The committee will be recessed for 5 minutes.

[Recess.]

Senator BREAUX. Will the Subcommittee please come to order?

Senator Stevens.

Senator STEVENS. Thank you, Mr. Chairman. These are general questions to the panel.

Is there any disagreement in this panel that our goal is Americanization of this fishery? I do not think Senator Magnuson and I were duplicitous about it in 1976. We stated then that was our goal, to set up a priority system for the domestic resource.

Now we are saying that the foreign vessels that are processors can still come in as long as there is a market. This bill does not keep the foreign processors out.

Does anyone disagree with that? It is just that the reflagged foreign vessel cannot come in and be treated as an American vessel as we try to determine whether there is American capacity to process this fish. Once we make that determination that there is American capacity, then it is obvious, I assume, to everybody that the joint venture stage is over.

Does anyone disagree with that? I just view this bill, Mr. Chairman, as another step in the transition which I think has been a long one. It has not been unfair. There is still time out there. I do not know how much time, but there is still time out there. If people want to reflag vessels, they can still reflag vessels. If people want to use foreign processing vessels, they can bring them in; but the time is going to come when there is enough domestic capacity that the allocation will be made only for the Americanized processing capacity.

Now, Mr. Bohannon, what is wrong with that?

Mr. BOHANNON. Nothing. We would like to keep the reflagging option open.

Senator STEVENS. You do not need to reflag under the existing circumstance. There is a market there for foreign processors today to process fish.

Mr. BOHANNON. Basically, Senator, if we reflag or if we preclude the reflagging, it is forcing us to stay in the joint venture mode until such time that there are American processors on the grounds.

Senator STEVENS. My last study showed me that there was enough CCF to build more than enough processing capacity for the whole North Pacific if fishermen entered into a cooperative arrangement. As a matter of fact, Congress three times passed my bill to try to allow the CCF to be brought ashore, because I still believe ultimately the economies of operation are going to require they come to shore. I have given that effort up because Congress does not want to do it, and there is some opposition somewhere. I never did find out where that was.

You do not need to reflag a foreign processor to be economic today. As Mr. Phelan points out, only 15 percent of the processing is being done by domestic vessels right now. Anyone who is entering a joint venture must realize from the statements we made 11 years ago, 12 years ago, that our goal was Americanization. That is what the 200 mile limit bill says.

How does this hurt your joint venture? I do not quite understand. I do not want to be argumentative, but how does it hurt the joint venture today?

Mr. BOHANNON. We are not trying to perpetuate joint ventures.

Senator STEVENS. I know that.

Mr. BOHANNON. What we are trying to do is develop markets to buy the fish that we catch. We have developed a harvesting capability of taking every last pound in the Bering Sea and the Gulf of Alaska. We have an investment of over $250 million to $300 million.

Senator STEVENS. That came about because of the 200 mile limit and the CCF. Magnuson and I did both at the same time, whether you know it or not. They were contemporaneous acts.

The CCF gave us generation after generation of new harvester vessels, and they are now successful. Now we are saying it is time for generation after generation of new domestic processing vessels.

I think it is just a natural progression. I understand your feelings about it.

Mr. BOHANNON. Senator, I think we are talking about apples and oranges in many ways. We do not have a domestic market at present to buy the fish that we catch. We have two or three shoreside processing plants that are a long way from the resource. We have no at-sea markets for the type of fishing that we have developed, and that has been traditional in this fishery for the last 40 years.

The reflagging option is not just for the processor or for the harvesters. It is open to everybody.

Senator STEVENS. Let me interrupt and see if I understand. You are saying on a regional basis where you operate that the foreign processors have been unwilling to come. Is that right?

Mr. BOHANNON. No, I am not saying that at all. What I am saying is that as joint ventures are phased out, we would like to stay in the fishery, and we would like to have a market someplace to sell our fish. Right now, there are no markets to sell our fish.

The factory trawlers come out, and they say they do not want reflagging. They are not buying domestically caught fish. We do not have a market to sell that fish right now, and that is what we are trying to do, to maintain an option, a viable option right now, to put a market in place with American ownership and American manning to buy that fish. One of those options is reflagging foreign vessels.

Senator STEVENS. I do not understand why you have to reflag a foreign vessel.

Mr. BOHANNON. We do not.

Senator STEVENS. The domestic processor vessels are there. Because of the circumstance in the oil industry, this is the lowest priced time for building domestic processors that we have seen.

Mr. BOHANNON. Senator, we are talking apples and oranges. They talk in the Gulf about the vessels that are going to provide markets. Those are 200-ton vessels. Most of them were built under tonnage. They do not have U.S. Coast Guard manning requirements. They are the same sized vessels we are talking about as far as tonnage.

We are talking a different class of vessel. We are talking 3,500, 4,000, 5,000 tons that can process up to 400 tons of surimi a day. There is not one American market or alternative market to joint

venture right now in the Bering Sea or the Gulf of Alaska. I will take that back. There is one.

The *Golden Alaska* buys about 150 tons a day maximum capacity, and that is it. There is 130 of us that catch basically the resource right now, and we have nowhere to sell our product.

We hear a lot of blue sky schemes. We have heard it today about these barges and other things, but I think if you remember, and you follow the waterfront up there pretty closely, we heard with New England and Kodiak, we have heard it with subsidy plants somewhere else, and yet we have not formed an industry out of it. We do not have a place to sell our fish. That is the bottom line. We would like to maintain the viable option of reflagging as one of the means of possibly selling our fish there.

Senator STEVENS. If you are right, I will join you and go to the governor, and we will suggest that the state build one. We have had deficits before. We built ferries when we became a State. If you are right that no one is going to build a processor in your area in the United States shipyards or will not put up the capital, I will help you get the capital put together to do it. I think it is there.

I can tell you who has the CCF. Incidentally, the next tax law is probably going to take it away from them. Most people do not realize that. If you do not get that money from CCF into these processing vessels soon, you will not have it. We told them that last year. We barely hung onto it last year.

I really think there is money there, and of all States, Alaska has got absolute incentive to make sure that there is a market for our domestic harvesting fleet.

I do not understand why we are crossing each other. I do not understand what you are saying because I know any number of people that want to build and are building domestic processing facilities now. They are as large as anything you are talking about available in the foreign processing fleet.

Beyond that, the foreign processing fleet can come to Alaskan waters now. So long as there is not enough domestic capacity, they are welcome. They have been doing business. We have a list of those that are there right now, and they will be there, I think, as long as they can buy fish.

Are you not selling your product now?

Mr. BOHANNON. Yes. I am selling it in a joint venture mode, just like another 130 vessels up there are doing right now.

Senator STEVENS. That is wonderful. I just think the time is going to come when we transition away from joint ventures into the next concept of domestic processors.

Mr. BOHANNON. We would love to see it, but so far there has been nobody to buy that product.

Senator BREAUX. Mr. Hovik, is that not exactly what you are involved in? Are you not in one or two joint ventures and also doing a situation with a conversion of a U.S. vessel into a processor vessel to give you that other option that Senator Stevens is talking about?

Mr. HOVIK. Well, yes, Mr. Chairman, that is essentially true.

Senator BREAUX. So what you are really doing is looking at an extra option that you are going to have. You can sell to your joint

venture, or you can sell through a U.S. reconverted processing vessel.

Mr. HOVIK. My partners and I have investment in JV boats. The partners that we are involved with in addition in the conversion of a vessel to a factory trawler have a total of six JV boats. We feel we are looking to our future, too.

It seems that, referring to Mr. Bohannon's statement that they need a market to deliver that fish, I agree with him. So do we. There is nothing, if you allow a foreign vessel to reflag into the United States after he becomes a citizen with all the rights of a U.S. citizen, to keep him from vertically integrating and buying his own vessels and displacing those boats in any case. So I do not think reflagging is the answer for them.

We have gone ahead. A moratorium I do not think will do it. It still leaves those with monies ready in place to go into processing or catcher processing wondering whether they should invest or not because 2 years down the road or whatever the time element is that the moratorium is over, they may be sitting with egg on their face.

If it is concluded and the reflagging issue settled, there will be no reflagging, and I think you will see a lot of investment into the arena, both shore and offshore. Whether they are actually just processors, I think U.S. fishermen can go in groups just as we have done. Financing is available. They can get their own processor.

There are those that agree with me and those who do not. When I speak now, I am speaking for myself. I am not speaking for the North Pacific Vessel Owners Association, because there is a multitude of members, and some of them are in the same ventures with Frank.

We are all trying to do the same thing, I think, and coming at it from different angles, but that is my opinion. Thank you.

Senator STEVENS. Mr. Baker had one last comment, I think, Mr. Chairman.

Senator BREAUX. Mr. Baker.

Mr. BAKER. I just wanted to reiterate a point that I made in my testimony, that Arctic Alaska has invested approximately $60 million in U.S.-built vessels in the last four years. One of those vessels is a floating operation that is the first U.S.-owned operation to produce surimi. We have almost gone broke because we could not attract joint venture vessels to deliver to that operation. It moves. It goes with the fish throughout the year.

There have been a lot of reasons for that, and I do not know that I could get into them in this commiteee today. We lost in excess of $5 million in 1985 in that operation because we built a mother ship operation to operate similar to a JV mode but we did not built catcher boats because we believed there were 140 joint venture boats out there that would be dying to deliver us, and we called it wrong.

We had to react and build our own vessels to correct that situation to stay alive. We have made money. In the last year, we have had a very profitable year. We have CCF monies. We are willing to invest them, but we are scared to death today, knowing that the foreign fleets are poised to come over and reflag. We are just not going to do it until we see this issue resolved.

Thank you.

Senator BREAUX. Well, I think all of you have presented your views——

Senator STEVENS. Mr. Bohannon had one last comment, Mr. Chairman.

Senator BREAUX. Do you have any comment, Mr. Bohannon, perhaps to what the others were saying?

Mr. BOHANNON. I do not know if it is proper to make a comment on somebody else's site here, but I think the question to Mr. Hovik, who is a good friend of mine, is that they had a firm 5 years, and they have not bothered to convert it until this year.

Another thing, I would like to know where that hull is being converted. Is it in a U.S. yard?

Senator BREAUX. Are you doing it in a U.S. yard, the conversion? The reason I ask is because someone suggested that any kind of conversion should be required to be done in a U.S. yard.

Mr. HOVIK. It is being done in a U.S. yard; specifically, Wright Schuchart Harbor Co. on the Duwamish River, Seattle, WA.

Mr. BOHANNON. Is it going to buy joint venture-caught fish?

Senator BREAUX. As soon as we adjourn this hearing, you can get back there and discuss that.

Mr. BOHANNON. Mr. Chairman, I think there is a good point here, though. These markets have not been built to take care of the capacity that we have out there to catch the fish today. One market has been mentioned here today. It does not take the capacity of probably one vessel as far as total capacity. The other vessel, I believe they are putting catching equipment on it. That precludes having catcher vessels deliver to it.

Senator BREAUX. Well, I think everybody can be assured that neither Senator Stevens nor I are going to move on anything that is going to jeopardize the harvesting industry or in order to try to help another segment. It is going to have to be something that is going to be to the benefit of both the processing, the harvesters and everybody involved in this business.

Your testimony, I think, has been very helpful to make sure we understand some of your legitimate concerns as well. We thank you for it. We will now excuse this panel and would like to welcome up our final panel for this evening consisting of Mr. Dave Harville from Kodiak, AL; Mr. Geir Monsen, representing the National Fisheries Institute from Rhode Island; Mr. Barry Fisher from South Beach, OR; and Bob Morgan from Seattle.

Senator STEVENS. Mr. Chairman, before anyone leaves, I want to publicly thank you again for this hearing. I know it is a rather strange thing to have a hearing in the afternoon. We would actually be subject to a point of order if anyone wanted to raise it.

Mr. Chairman has taken his time on a matter that really has no direct relationship to Louisiana. I really thank you very much. It is primarily an Alaskan problem, and most people know that. It is going to spill over into other areas before we are through, but I am deeply grateful to you for the time you have spent this afternoon on this.

Senator BREAUX. I thank the Senator for his nice comments.

Let us see. Mr. Morgan, do you want to go ahead and start?

## STATEMENTS OF ROBERT F. MORGAN, PRESIDENT, OCEANTRAWL, INC., SEATTLE WA; DAVE HARVILLE, KODIAK, AK; GEIR MONSEN, ON BEHALF OF THE NATIONAL FISHERIES INSTITUTE, RHODE ISLAND; AND BARRY FISHER, SOUTH BEACH, OR

Mr. MORGAN. Mr. Chairman, Senator Stevens, I am Bob Morgan, president of Oceantrawl, Inc. Oceantrawl is a U.S. corporation which will operate surimi vessels in the North Pacific. The corporation currently owns a vessel which is being converted from its former role as a U.S. coastalized trade bulk commodity carrier to a surimi catcher/processor. The vessel is approximately 340 feet long and 4,500 tons. When in full operation, it will be capable of processing 250 tons of pollock per day into surimi. This will yield something in the area of 50 to 55 tons of finished product per day and 13,000 tons per year.

During the past several years, I have testified before this Committee on several occasions on behalf of the Pacific Seafood Processors Association. Although I am testifying today on behalf of my new company, Oceantrawl, I would like to make it clear that my position is identical to that of PSPA on the question of reflagging and also NFI, incidentally.

We feel that unless we preclude the option of using foreign-built vessels, the Americanization process in the North Pacific will be stymied. We have reached the point where almost all of the groundfish resources in the area are being harvested by U.S. vessels, and this year approximately 15 to 20 percent of this harvest will be processed and marketed by U.S. companies.

I am also pleased to say that the level of investment by U.S. corporations in developing North Pacific groundfish is expanding rapidly. Shoreside plants and at-sea processing capacity have both been applied dramatically in the past few years, and the pace of this development promises to continue at a rapid pace for the foreseeable future unless a major obstacle appears.

When I say major obstacle, I mean something such as collapse of the groundfish resource itself, a collapse of the currently favorable prices and exchange rates which exist in the world market, or an influx of foreign-built reflagged vessels into the fishery.

The first two threats I do not feel are particularly likely scenarios, although I do have increasing concern about the health of the resource. The most immediate threat we face, however, is reflagging. Why is this threat so serious? The problem is a simple one of economics. Foreign fishing nations currently have in place a large supply of a type of processing vessels which are ideal for use in the North Pacific. In fact, most of the world's major fishing nations have been using these vessels to fish in the waters off Alaska for decades.

They have the equipment, the capital and the experience to produce a high quality product using the fishery resources of the United States. This has been proven, much to our dismay, since shortly after World War II.

The prospect of U.S. companies displacing foreign nations in the North Pacific was only a dream until 1976 when the Fishery Conservation Management Act was passed. In the 10 years since the

Magnuson Act's implementation, we have made slow but steady progress toward the goal of what has come to be known as Americanization.

In the last 2 years, however, political assistance and favorable market conditions have resulted in the full Americanization of the harvesting side and the beginnings of Americanization for processing. This is in keeping with the spirit and the intent of the Magnuson Act. Things are evolving in the North Pacific as the authors of the Act intended.

Why, then, is this progress so severely threatened by the possibility of foreign vessels being reflagged? After all, U.S. law has permitted such reflagging for many years, and it has never been a problem. Why the concern now? The answer is that as long as foreign fishing nations have had ready access to U.S. fishery resources either through directed fishing or through joint venture purchasers, they had no need to use the reflagging option.

Reflagging, after all, does involve some expense for the foreign firm which owns the vessel. In order to operate as a U.S. processing company, they need to set up a U.S. corporation with U.S. citizens as chairman and president and with the majority of the board of directors being U.S. citizens. They would also need to outfit the vessel in a manner which complies with U.S. safety and environmental standards.

Finally, the newly reflagged vessel must operate with a 75 percent crew unless it is being homeported overseas and never puts into a U.S. port. This is a rather involved although not terribly costly process. However, when you consider the potential economic benefit of reflagging, the time and trouble involved becomes an extraordinary bargain.

The Magnuson Act provides U.S. processors with priority access to the resource of the U.S. in the fishery conservation zone. A newly reflagged foreign-built processing vessel being operated by a U.S. corporation would enjoy this right of priority access just the same as any U.S. fishing company which has been doing business in Kodiak or Seattle or New Bedford for the past 100 years.

Furthermore, these newly created U.S. corporations and the newly reflagged vessels would have a huge economic advantage of competing with cheaply built foreign vessels, many of which are already paid for. On the other hand, U.S. companies such as Oceantrawl are investing up to $40 million in new or converted U.S.-built vessels with the specific goal of completing the process of Americanization.

I can assure the members of the committee that our chances of competing successfully after investing $40 million will be greatly diminished if we are forced to compete with the reflagged foreign vessel which costs perhaps $4 million and which is already paid for.

I wish to make it clear that neither Oceantrawl nor PSPA nor the National Fisheries Institute are asking for anything amounting to trade protection. We are not asking for special rules. We are asking for different rules under which all players must participate. If the legislation we are proposing today is enacted, it will simply mean that no company will be able to use a foreign-built vessel in domestic fishery. That will apply to us and to all our competitors, including any Japanese, Korean or other foreign firms that may

wish to set up a U.S. corporation in order to gain access to the groundfish resources in the North Pacific.

During the debates of the past 10 years regarding U.S. fishery development, we have often spoken of creating a level playing field. The reflagging issue was another example of an existing foreign advantage which could serve to hinder efforts by Oceantrawl and other U.S. companies to employ U.S. citizens aboard U.S. vessels which will be harvesting, processing and selling U.S. fishery products in the world market.

We have the potential to almost completely wipe out the $5 billion fishery trade deficit we now face if we fully develop and export the pollock, cod and other resources off Alaska. I hope that we can count on the support of the members of the committee in achieving this goal, and I appreciate the opportunity to testify. Thank you.

Senator Breaux. Thank you. Mr. Fisher?

Mr. FISHER. I was the first joint ventury fisherman in 1978. I was a fleet captain of the first fleet of vessels that went to Alaska. And they were all "down-below" boats from Oregon and Washington because we couldn't get any Alaskan boats to go with us in 1980.

These vessels have been around for a long time. I'm also part-owner of a factory trawler, a small factory trawler. And I think my sympathies are going to have to come down on the side of, a prevention of foreign reflagging; but I don't want it to be a closed issue.

I'd like to take you back some 10 years when the act was passed. We fiserhmen were around then. In fact, we were around during the markup of the FCMA of 1976, and we were talking about joint ventures then. And we asked the staffs of both House and Senate to consider the possibility of joint ventures which were not covered by the draft legislation.

It couldn't be done we were told. Another fellow that's sitting in this room and I spent I think, what, some 21 months after passage of the F.C.M.A. petitioning this committee, petitioning House and Merchant Marine Fisheries Committee, asking for the chance to go fishing on a joint venture, and if we failed, so be it; we wanted to fail in the marketplace.

Well, I think we started a big pack of trouble. We proved that American fishermen could catch fish like hell, with the best of them.

And a lot of what you see and hear today was built on our backs. And I sympathize with these guys who advocate reflagging. I don't agree with them, with the American High Seas Fishery Association; but I sympathize with them, and I know what they're talking about.

I own two of those 130-boats on joint ventures. And I'll go for a ban on reflagging, providing it isn't a closed issue forever, for the simple reason that the processors have never lived up to their promises.

And Frank's right when he says that 15 percent of the JV catching capacity is there fleet. And I'll not support reflagging because I think these guys deserve a shot, and they deserve the freedom to fail just as we deserved it when we started.

We didn't fail. And with a lot of guts and a lot of skill, we turned in the most efficient trawling this world has ever seen in the

Bering Sea and off the Washington and Oregon and California coast.

I'm hearing a lot of remarks today that seem to me to be black and white. Big promises, promises, promises. We heard those in 1978, we heard them in 1979, and we've had to fight for our lives ever since.

And I think, Senator Breaux, you remember that, all of the attempts to shut us down. We're an indomitable breed of guys. And where I disagree with Frank of the American High Seas Fishery Association and those guys is, I think we can come up with the scratch, the capital, to put together American processors, if we want to go that way.

And I also know that we've been talking about things that are differentiated from the fishery abstract things. There's a lot of rhetoric and hyperbole.

There are going to be some species that the joint ventures are going to hang in on for a long time to come, because there's no American demand for them, and there's a good foreign demand for them.

For those reasons I would support putting a ban on reflagging. Because what I'm afraid of, Frank and those guys are right when they talk about the need for their markets, but what I'm afraid of is something that's going on right now with Korea Wong Yang Fisheries. They've been the biggest outlaws that ever hit Alaska. They're reworking two big floating processors, and they bought four American-built oil supply boats who are currently in Singapore, and they're going to be taken to Pusan and refitted. They have options on four more like vessels in the Gulf of Mexico-American coast.

And after having fished with the Koreans for 5 years, that's the kind of competition that I don't want to see any of these guys face.

I've believed about a third of what I've heard here this afternoon. And it seems to me we've gotten a long ways away from fishing. We've talked about hundreds of millions of dollars and all the jobs.

I'm not worried for those two boats I own. They're going to find a market. They're going to continue on joint ventures for a long time.

And I'm not really afraid of our future in the little factory trawler either.

The one thing I don't want you to do is ever lock anything up the way that some proponents have suggested, pro and con today, so that there's no remedy, there's no remedial action necessary.

And beyond that, I can't say much. We continue to devote time to politics. I don't want to see you lock things up permanently.

But I think banning reflagging now is necessary. You've heard a lot of promises. You've heard them over the years from a lot of processors. I'd like to see you hold them to some of their promises for a change.

[The statement follows:]

STATEMENT OF R. BARRY FISHER

My name is R. Barry Fisher. I am a trawler owner/operator and President of Midwater Trawlers Cooperative, an Association of some 25 vessels engaged in joint ven-

tures with Marine Resources Company International (the US/USSR Joint Venture). I am also a member of the Highliners Association of Seattle, Washington and a Director of the Fishermen's Marketing Association of Eureka, California. In addition to this, I have been and am a member of advisory panels to the Pacific Fishery Management Council and to the North Pacific Fishery Management Council. I would implore the Senate Commerce Committee to proceed cautiously and slowly upon the issue of the re-flagging of foreign bottom fish processing vessels. This is a contentious issue and, in almost every phase of the issue, one can argue pro or con under the guise of "benefiting" the American fishing economy.

I would ask you to bear with me for a moment while I cite a section of recent fishing history in the Pacific Northwest fishing industry.

I was and I am the American Senior Fleet Captain for the Soviet/American Joint Venture Company. Ten years ago, I appeared before this Committee and the House Merchant Marine and Fisheries Committee begging permission to embark upon the joint venture. The joint venture between foreign processing ships and American catcher boats was vociferously opposed by the American processing sector, whose lobbying efforts were aided by heavy funding by Japanese fishing interests. In 1977 and 1978, over $2,000,000 in lobbying funds were expended by the Japanese to defeat the joint ventures before they began.

Several of us had commented prior to the passage of the FCMA of 1976 that the legislation contained no reference to or position on joint ventures. However, this Committee and the House Merchant Marine and Fisheries Committee did accede to our request to allow joint ventures.

I was the first American fisherman to commence joint venture operations in 1978 with our Soviet partners off Oregon for whiting. In that same year there was less than 400 tons of bottom fish landed in Alaskan ports and, as you know, there were many under-exploited and un-exploited fishery resources in the Pacific Northwest. The 1978 miniscule harvest of some 900 tons proved the feasibility of the joint venture. We promptly expanded the joint ventures to Alaska commencing in 1979 and 1980. A new age in fishery development had began.

The economic effectiveness of the joint venture proved to be the mechanism that broke the back of foreign domination of the Alaskan groundfish fisheries. It provided badly needed income for our trawler-crabber fleet and by the conclusion of 1986, American bottom fishermen had landed 1.4 million metric tons with a value in excess of $300,000,000. By the end of 1987, direct allocation of surplus fish to foreigners will be ended. American fishermen can take full pride in our efforts.

I feel that the use of the joint venture mechanism accelerated the process of Americanization of our fisheries and helped spawn the development of, among others, the American factory trawler fleet which is rapidly growing, and also the beginning of the entrance of American processors in both shore processing plants and "floater processors" in Alaska. We have lived up to the expectations of the framers of the FCMA of 1976.

We are now at another crossroads in this rapid development. For instance, private Japanese and Korean concerns are planning once again to re-assert domination of this American ground fishery by expeditiously transferring flag of registry in their fleets of huge processors which are now becoming redundant as foreign flagged vessels because of our successful Americanization. If these vessels are allowed to be transferred under the American flag by the judicious selection of a few American principals and a maze of holding companies to disguise the foreign control, we will be right back where we started in 1977 and 1978. One Korean company is already engaged in a process of fitting out two large surimi processing ships and is also in the process of converting several oil industry "mud boats" to serve as "American catcher vessels".

The attendant practices of enormous pulse fishing efforts by such a fleet (i.e., apply enormous catching and processing efforts on a given stock of fish and then moving on to another stock of fish to be pulsed) will de-stablize the American domestic ground-fish industry. In short, foreign interests will once again be dominant; they will have no further need of independently owned and operated American vessels and will then face our emerging American processing with ruinous competition in U.S. and world markets.

It is no secret that government action and government funding is heavily involved in both the Japanese and Korean industries. We cannot afford to allow this blatant strategy to occur. I would plead with you to declare an immediate moratorium on the re-flagging of foreign processing ships. I believe a thorough study of this issue is warranted before any final decisions are encoded in legislation and, further, I believe that all segments of the domestic American fishing industry should be included in any subsequent study groups. We are the people who will be affected and im-

pacted, and whose livelihoods will be threatened. It would indeed be ironic to witness the degradation of the world's most efficient groundfish fishermen by allowing the Japanese and Koreans to reassert domination in the markets and on the fishing grounds by legislative oversight by the institutions which, by their wise passage of the FCMA of 1976, set us free and gave us the weapons by which we have Americanized the Pacific Northwest and Alaskan groundfish fisheries.

Thank you for your time. I stand ready to answer questions if it is your pleasure.

Senator BREAUX. Thank you, Mr. Fisher. You know, I agree with you, believing about one-third of what you hear in Washington is about a pretty good average. It's just a question of figuring which one-third is the right one.

Mr. Harville.

Mr. HARVILLE. Thank you, Mr. Chairman, Senator Stevens.

Two days ago sitting in Kodiak AK, looking out the window at the snow on the ground and the misery, I thought it was a great idea to come to Washington, DC.

I'm for reflagging, and I think I've painted a great big target on my chest now. I represent Kodiak and western trawler group. I'm a member of the Alaska Draggers Association. I'm a director of the High Seas Fisheries Association, and cochairman of the Alaska Groundfish Data Bank.

I'm the owner-manager of three JV boats and two domestic groundfish boats, and I've been operating in the groundfish business continuously since the early spring of 1978, which makes me the oldest continuous operator in the groundfish business, show-based, in that State. And I feel that I can talk with some authority.

As far as—I'm not going to stick exactly to my testimony. I'll try to shorten this up.

As far as the American High Seas Fisheries Association is concerned, I was instrumental in helping form it, that original letter that was written was written as a private letter to people who fished with westward trawlers.

When we got together and decided to form that association, we made it very clear to all people who were involved that it was not to be a Japanese-only association. And most of us who have become directors of that association indicated we would not even join or have a part in it if it were to be a Japanese-only.

That's a digression, and it has nothing to do with why I'm here.

I'm unable to comment intelligently on the part referring to fish transport. However, I intuitively feel that if fish are going to be exported to the U.S., it makes sense to have them come in on U.S. vessels.

I support requiring at-sea processes to have the same requirements for employees as shore based plants. I don't know the law well enough to know if requiring all seamen employed on a fish processing vessel be U.S. citizens allows at-sea processors to hire green card workers or use foreign technicians.

I do however know that in Kodiak green card workers from a significant portion of the shore based processing plant workers and the specific products like roe and surimi, Japanese technicians are present in the plants.

I also know that last week the newspapers in Alaska were advertising frantically for 8,000 processing workers.

I also know that in Kodiak we have the lowest unemployment in the State of Alaska, and there is a very real shortage of employees at this time.

The portion of this bill about which I have reservations, and to which I will direct the remainder of my testimony, is the portion which would force at-sea processors to use only at-sea built hulls.

I want to make it clear, I do not favor unlimited reflagging, nor am I advocating that new at-sea processing ships be built in foreign shipyards and reflagged for use in U.S. waters.

I support the national goal of Americanizing the North Pacific fisheries as rapidly as possible, and I don't feel that the reflagging issue has been evaluated in terms of this goal.

In fact, I'm a little confused about what we're trying to accomplish by stopping reflagging. If the goal is to Americanize as rapidly as possible, then reflagging is simply one of the options which should remain available for accommodating U.S. harvesting capacity.

I don't see what the difference between buying processing equipment from a foreign country or buying an existing—the difference between buying my equipment overseas or an existing processor ship.

I don't see what the difference is between taking an old U.S. hull to a foreign country for conversion, or buying an existing foreign processing ship to upgrade to U.S. standards.

I don't see what the difference is between taking the propellor off a foreign ship, tying it to dock, and processing as a shore based plant, or leaving the propellor on and processing at sea.

All the above are legal now, but only reflagging is addressed in this bill. And frankly, gentlemen, I can't see that there's any difference among the various options.

However, if the goal is to Americanize only if American shipyards and American manufacturing companies also benefit, then this bill needs to go further and prevent American hulls from being converted in foreign countries; stop processors from buying foreign made processing equipment; and close the loophole which allows taking the propellors off a foreign processing ship, tying it to dock, and using it as a shore based processing plant.

I personally consider it hypocritical for someone who takes a U.S. hull to a foreign shipyard to be converted by foreign labor, installs foreign equipment, and finances with a foreign bank, to testify against reflagging.

The question we should be asking isn't whether or not to allow reflagging, but how do we offer the U.S. fishing industry the greatest range of opportunities to increase its groundfish processing capacity rapidly, efficiently, and economically.

To my mind, limited reflagging should be among those opportunities, because simply stated, total Americanization will require at-sea processors.

Anyone who looks at the chart of the Bering Sea can see there are vast fishable areas in the U.S. FCZ, and international waters, which are beyond the range of shore based plants.

There is a limit to how far a boat can go economically.

You all know that U.S. harvesters have built a fleet of over 100 vessels strong for the purpose of delivering at sea. The growth and

productivity of this fleet is the reason there are virtually no foreign catcher boats working the U.S. FCZ this year.

I want to point out that the U.S. catcher fleet developed before the near-shore fleet, because there were no shore based markets available. And I can attest to that. I went through four bankruptcies with shore based plants before I finally acquiesced and converted to joint venturs. You can ask Mr. Fisher and Mr. Pereyra about my activities back in those days, against JVs.

Finally, with great reluctance, I put money into vessel conversions for at-sea harvesting, but there's no other options for my boats beside bankruptcy.

The high seas harvesting fleet has contributed billions of dollars to the United States in conversion costs, and the ongoing costs of fuel, supplies, equipment and maintenance. We will continue to provide income to the U.S. and fish to U.S. processors if there are U.S. floating processors available.

In order to assure the development of U.S. floating processors, I feel that limited reflagging must be an available option.

One alternative for those of us capable of it is to deliver to shore based plants. However, there is a growing fleet of vessels designed for shore based deliveries, and believe me, they don't want to see the American high seas fleet competing with them for their market.

And in fact, as I can attest to you that I asked for shore based markets to two plants in Kodiak the other day and was turned down because I was a JV operator.

The vessels now delivering groundfish and shrimp to Alaska, Washington, Oregon, and California don't want to see the high seas fleets sailing up to their docks, nor does the Bering Sea crab fleet, nor the emerging long-lining fleet want to see the high seas trawl fleet replace their trawl winches with competing gear.

I personally don't see the growing fleet of factory trawlers, or the boats being built in the United States as catcher-processors, providing us with any market. It's too much more economical to catch and process the fish themselves.

All the attention being paid to whether or not to allow reflagging ignores the real questions that we should be addressing.

And that is, how do we plan for an orderly transition to a totally domestic fisheries without adversely affecting the emerging shore based groundfish fleets or the other fisheries?

How do we continue to provide opportunities for the existing U.S. high seas fleet?

In summary, I would like to say stopping all reflagging does not force at-sea processing vessel conversions to be done in the U.S. shipyards, nor stop the purchase of foreign equipment, nor prevent foreign ships from being used for processing on shore.

At sea processing capacity is necessary to harvest a significant portion of Alaska's groundfish stocks. Failure to allow the U.S. at-sea catcher fleet all options to continue at-sea deliveries will adversely affect the near shore fleets and other fisheries.

To rush into a decision about whether or not to reflag is rather like putting a bandaid on a crying child to make him feel better. Legislated bandaids may make some people feel better in the short

run, but they have a nasty way of creating real wounds in the long run.

Rather than debating reflagging, we should be discussing how we feel our fishing industry should develop; how to expand U.S. processing capacity; and how to maintain opportunities for all segments of the existing harvesting fleet.

Before charging into a debate on whether to reflag or not to reflag, we should first define our goals and then decide how best to meet them.

I feel some form of limited reflagging will turn out to be advantageous, if the whole industry rather than a specific segment, is considered.

Banning reflagging without considering the effect on the industry as a whole—and when I say that, I'm talking about the existing infrastructures in Dutch Harbor and Kodiak which are there to service this fleet—I fear may end in creating a disorderly rather than an orderly transition.

I thank you very much.

Senator BREAUX. Thank you, Mr. Harville.

Mr. Monsen.

Mr. MONSEN. Mr. Chairman, Senator Stevens, I am Geir Monsen, vice president of Seafreeze Ltd. from the State of Rhode Island.

And I'm also chairman of the vessel committee of the National Fisheries Institute.

I appreciate the opportunity to be here this afternoon to present the views of the institute, the largest association representing U.S. seafood industry.

Its member companies own and operate vessels in most of the major commercial fisheries in the United States, both on the west and east coasts and in the Gulf of Mexico.

They also own and operate processing plants and other facilities throughout the United States.

The institute supports legislation which would require that any future vessel which will be considered to be a vessel of the United States under the Magnuson Act be built in the United States.

This would help stabilize the present investment climate, and help ensure that U.S. development continues in an orderly manner.

The institute does not support any changes in the present requirements concerning the manning and ownership of fishery vessels.

Since you have heard so much about what is happening in Alaska, I would like to let you know what is happening on the east coast. My company is a sales and service company for five U.S. factory trawlers that operate in the Northwest Atlantic and in the Gulf of Mexico, with a home base in the State of Rhode Island.

Seafreeze and all the vessels of our group are owned and staffed by Rhode Island fishermen that started with nothing and built themselves up.

We have a total employment of about 100 people. The primary target fish for our group are those species such as squid, butterfish and mackerel, which have traditionally been harvested and processed by foreign flag vessels.

At the present time U.S. processing plants and vessels on the east coast are competing against factory vessels from Japan and Europe that continue to operate in some of the U.S. fisheries.

U.S. companies, however, are making progress in replacing these foreign vessels, and the U.S. fleet of factory trawlers continue to grow, on the east coast also.

Altogether, there are seven factory trawlers in operation at the present time. There are two under construction, and to the best of my knowledge, there's at least four more in several stages of planning.

These U.S. factory trawlers harvest and process their own catch, primarily, but they also sometimes operate as mother ships and take deliveries of fish from other U.S. fishing vessels.

Last year, for example, our company purchased a fair amount of squid from other U.S. Harvesting vessels. We hope to do this again, because it's good business for us, and it helps us make use of the full processing capacity of the vessels.

The New England and mid-Atlantic fishery management councils have recognized these at-sea developments as well as the on shore developments. And as a result of this, operations of foreign fleets in the Atlantic have been curtailed.

At this point, these foreign vessels must either abandon their operations in U.S. fisheries, or switch over to buying their product from U.S. plants and vessels.

There is a very strong possibility that foreign vessels might enter U.S. fisheries as U.S.-flag vessels, and this is of very great concern to hundreds of U.S. companies along the East Coast that catch and process the types of fish in question.

Under the present law, a U.S. company may purchase a foreign built vessel and operate it as a U.S.-flag processing vessel, provided that the vessel neither harvest nor engage in the coastwide trade.

While this possibility theoretically offers U.S. companies an opportunity to obtain less expensive equipment, few companies are taking advantage of this option so far.

Past efforts to purchase foreign flag processing vessels have been frustrated by refusal of foreign officials to grant the necessary approvals. Also, many of the vessels that have been available have not been the best suited for U.S. operations.

The vessels which are best suited are presently controlled by the same foreign companies that are competing against U.S. vessels and plants which are presently expanding their operations.

These foreign companies are in the best position to reflag their fleets, and thus gain unrestrictied access to fish under the Magnuson Act.

Up until recently, the foreign factory vessels operating in U.S. fisheries have maintained their overall supply of fish. When foreign harvests were cut back, the foreign processing vessels were able to buy fish from U.S. fishermen.

Now that the levels of over-the-side sales to foreign factory vessels are in the process of being reduced, or will be reduced, this in turn has introduced an element of uncertainty in the present investment climate.

The institute believes that the best way to ensure that these investments occur is to require that all future processing and tender

vessels be U.S. built according to the same requirements that presently apply to U.S. fishing vessels.

The institute does not support changing the present manning requirements for U.S. fishing vessels or processing vessels.

The ability of vessel operators to employ some foreign workers has been very helpful in developing those U.S. fisheries which have been exploited by foreign fleets. Foreign experts have provided valuable technical assistance, particularly with respect to on-board processing operation, where they've had to incorporate new technology and equipment.

Also, in those few situations when U.S. fishing vessels operate in remote distant water fisheries, it is often impossible to find sufficient numbers of U.S. crewmen to man them properly.

The Institute also opposes changing the rules governing the ownership of U.S. fishery vessels. The U.S. seafood industry is heavily involved in international trade, and many U.S. companies maintain close ties with their foreign buyers and suppliers.

Over the years, foreign companies have invested in the U.S. industry just as the U.S. industry has invested in overseas operations.

Foreign investments have played a key role in helping U.S. companies to expand and modernize their operations, and the institute believes that foreign investment should continue to be encouraged, and that it would be counterproductive to U.S. development to impose further ownership restrictions.

Thank you.

Senator BREAUX. Thank you, Mr. Monsen. And I'd thank all of the members of the panel for their patience in being with us all afternoon, and presenting your testimony.

To Mr. Fisher and Mr. Harville, do you disagree with the proposition that your joint ventures eventually were successful, particularly Mr. Fisher's, because we had passed a law in 1976 that eventually phased out directed fishing of foreigners? Therefore, the foreigners went to the joint venture as something that was really forced on them by the Congress when we passed the law back in 1976, right?

Mr. FISHER. I support the processor preference amendments to the FCMA. If we go back and examine the genesis of the idea, I think you will find that if you go back to the staff records, that the idea originally came from a group that suggested it to the processors so we could get on with the business and get a permit to go fishing.

And I support the process.

Senator BREAUX. So then in 1979 we took the next step that said you cannot take a foreign fishing vessel, made cheaply perhaps in a foreign yard, and reflag it and bring it into the U.S. zone and get the same preferential treatment that a U.S. owner of a U.S. built boat did, giving the fisherman, the harvester, yet another preference, if you will.

Now this legislation by Senator Stevens is saying, we also want to make sure that the U.S. processing industry has that same assistance that we gave to the U.S. harvester.

Is there anything wrong with that? Because that's what this legislation basically does.

Mr. HARVILLE. No. There's absolutely nothing wrong with giving the American processors as much preference as you can. But I guess I have to say I think there is something wrong with giving them a special preference over and above those of us who have made the initial investments and been in the industry for so long.

I have to go back to my testimony, stating that if you are going to pass a law against reflagging, then let us pass a law against buying equipment and converting boats—American hulls in foreign nations.

I mean, we have to look at the whole situation, not just at the JV fleet out there.

I guess we tend to feel, Senator, that we are being targeted. And I realize that is not your intent. But I guess after 10 years in Alaska. And after, like I say, going through so many bankruptcies, fish plants going bankrupt owing me money, I guess I'm like Barry, we tend to look with a jaundiced eye at some of the promises being made.

We don't see anybody building processing ships to come out and magically take our fish. We see people building catcher processors. But those catcher processors aren't going to take our fish; they're going to come out and replace us.

Well, I think they are. I think they're going to come out and replace us.

Senator BREAUX. Well, the point would be made that perhaps some of the reasons the processors were having those financial difficulties during that period was because they didn't have, in fact, a preference, that others could come in and replace their opportunity to process those fish caught in our waters.

Mr. FISHER. Let me try my hand in answering that. Dave and I don't agree on everything.

There is an area of gray in what he is saying and what I am saying. I want to see the processor preference amendments followed, and I want to see a moratorium on the reflagging, to get these buggers the American processors out of the underbrush.

For 8 years now they've been seeking political settlements trying to ban the joint ventures. They haven't invested. If you look at the investment, Senator Stevens, in Alaska by these guys, for all their hyperbole, they haven't invested.

Where Dave and I don't agree, I think, is I want to see them given preference now, to see their future track record. I think it's fair to say that they've sought political solutions to the joint venture problem for the past eight or nine years.

There are some fisheries that, yes, the American factory trawlers are going to replace us in. Fisheries like surimi. I don't expect that we should be considering that.

There are other fisheries up there, sole and cod. Some of the smallest species-specific things, where some of these big rigs are not going to be able to make it.

I want the processor preference amendments followed, and I'm still saying the same message that I said in 1978 when I was pleading with you to give me permission to go fishing, to fail if it wasn't a good scheme.

We want to get them to invest. They've been skittish about the investments. Following the processor preference amendments, pre-

venting reflagging is going to do it. Let's get them into the game and end all these future promises.

Senator BREAUX. Mr. Morgan, what kind of assurances from your perspective, supporting this legislation, can you give to the numerous harvesters that are currently operating out there that they will still have a market, either through joint ventures or otherwise?

Mr. MORGAN. Well, I think the fact that my company has invested $40 million in a new vessel, I think that there's a great supply of capital out there waiting to be invested when in fact the processor preference comes into play.

I think what has inhibited the ability of these gentlemen in the past to have a market is the fact that there was a preference for the foreign fleets, and the capital available for investment in domestic processing wasn't about to be committed.

But now with things like preventing reflagging, and the expression gets to be kind of trite, but levelling the playing field, is what's going to cause the industry to be truly Americanized completely, harvesting and processing and marketing.

Senator BREAUX. Senator Stevens.

Senator STEVENS. The thing that worries me, Mr. Chairman, about the whole hearing, is the fear that I hear expressed, that the people who have been the active participants in developing domestic harvesting capacity fear that they will not be able to sell to the catcher processors that are being constructed.

We have heard testimony that we have got processors being constructed. I still don't have the answer for myself as to why these domestic harvesting vessels do not use the cooperative laws that are on the books now and build processors that would process their catch.

They can do it more cheaply than the catcher processor can because they have CCF to start with, and they have the cooperative laws which the catcher processor doesn't have.

There are two tax incentives in the cooperative processor vessels.

Now, Mr. Harville, could you tell me, why haven't we had cooperative use of CCF to build processor vessels?

Mr. HARVILLE. I can only answer, Senator Stevens, for myself.

I happen to be a pioneer. And you can tell pioneers by the arrows in their back. And I have the same thing to say that Frank Bohannon said. And you can tell him by the arrows in his back.

We got into this thing a long time ago when it wasn't a good business. And by the time it got to be a good business, we were in pretty damn bad shape.

Now I am not in the shape financially to go out and build a processing ship. I can tell you that quite frankly. My CCF isn't big enough to make a drop in the bucket as far as building a processing ship.

Senator STEVENS. Yes, but 20 vessels together could. And what we're saying, one of these processors can handle about 20 of their processing vessels today.

Mr. HARVILLE. One catcher boat right now is handling one processor in the Bering Sea, and in some instances, one catcher—or shore plant. They're saying there are 300 joint venture permits out there for foreign processors; only 130 catcher boats supplying those

quote unquote, according to Mr. Fuhs, processors that are out there.

It doesn't take much catching capability, Senator, to keep a factory plugged. It's almost a one-on-one basis, sir.

Senator STEVENS. Well, that's not the fear that's been expressed here, that one enormous processing vessel would come in.

Mr. Bohannon, was that you that mentioned that?

Mr. BOHANNON. Sir?

Senator STEVENS. Someone mentioned a fear of the large vessel, I think it's the Korean one that's out there.

Mr. FISHER. I did.

Senator STEVENS. You did, Mr. Fisher, sorry.

Mr. FISHER. No, the fear I expressed, Senator, is that if reflagging is allowed—remember, I've got empathy and sympathy with these guys, because I know what they're talking about. Nevertheless, I want the ban on reflagging.

The fear I was expressing is, a huge foreign processing ship getting reflagged and simultaneously either displacing those guys or us by getting his own catcher boats.

There are plenty of people around in this society that will take 30 pieces of silver.

Senator STEVENS. That's why the bill is here. I have the same fear. But I don't know the answer to this fear that is being expressed that people who have pioneered the domestic fishery feel they're going to be shut out.

I would be more than willing to listen to that. I don't know what the answer is. But in the old times, they made the pipelines common carriers. Maybe we'll have to make these processors accept fish from the vessels that present them.

I do not know. Something has got to happen to make sure that the domestic harvester is not shut out on these processing vessels.

But at the same time, anyone of these processors that comes in here, if it's big enough, will simply acquire their own harvesting vessels, and that will be the end of those domestic harvesters anyway.

I think it's a Catch-22, and we've got to go on the stump. I hear what you're saying, Mr. Harville. And I hear what Mr. Bohannon is saying.

I feel that unless we take this step we won't be able to go backwards later, when the foreign processors will in fact dominate the scene by virtue of reflagging. They'll still be foreign, but they'll be reflagged.

Mr. HARVILLE. Can't you legislate some controls into it, Senator?

Senator STEVENS. I think you all ought to submit suggestions to it. And I am sure the chairman and I would consider anything that would protect those people that have the domestic harvesting capacity.

I feel that the tax laws are there. And there are more incentives right now for building cooperative processors, I think, than any of you realize.

Mr. Morgan is talking about one that's financed with new money, as I understand it. That's not CCF money, is it Bob?

Mr. MORGAN. No, it isn't.

Senator STEVENS. This other money, if it's not used within two years, it will be paid into the Treasury. That's a subsidized operation, when you use the cooperative laws from agriculture economy and use the CCF, you've got the greatest advantage today in processing that Morgan is not going to have.

I don't want to take your time right now. I have asked a group of you to get together with me tomorrow morning at 8 o'clock. If you will, we will try to explore it and report back to the chairman if we find any solution.

I don't know of one other than cooperative processing.

Senator BREAUX. Thank the Senator for his questions.

Senator STEVENS. There's no difference than the people who built the granaries out in the Midwest. If you want to look at what kept them together, it was the cooperative granaries.

Thank you.

Senator BREAUX. Thank the members of the panel. Thank all the witnesses this afternoon.

I think we have had a good hearing. I think we received a great deal of testimony.

It is the intent of the chairman now to make a report to the full committee, and for action to be determined by the full committee.

The committee will stand adjourned.

[Whereupon, at 5:40 p.m., the subcommittee adjourned.]

# ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

SEPTEMBER 24, 1986.

Senator GORTON, Senator STEVENS, Senator MURKOWSKI, Congressman YOUNG, Congressman LOWRY, Congressman MILLER, Congressman BIAGGI, Congressman BREAUX.

Gentlemen: The undersigned fishery organizations, representing a broad and substantial cross-section of the groundfish harvesting and processing industry in the Pacific Northwest and Alaska, hereby respectfully request your immediate help in introducing and passing legislation to close a loophole in U.S. law which if not corrected, would substantially subvert and cancel the efforts made in recent years by the U.S. fishing industry to bring about Americanization of our fishery resources for the maximum benefit of our nation.

Specifically, under present U.S. law it is possible for non-citizens to have 100 percent ownership of U.S. flag fishing and/or processing vessels. Furthermore, there is presently no prohibition against acquiring a foreign built, foreign flag vessel and redocumenting that vessel as a U.S. flag fish processing vessel to operate in the fisheries of the United States.

Although on the surface this may not appear as a major issue, the following recent events have underscored the critical and immediate basis for our concern:

1. The rapid increases in domestic harvests through joint venture fishing arrangements and domestic processing operations have drastically reduced foreign fishing quotas (TALFF). Consequently, the large foreign fishing fleets which have been operating in the U.S. fishing zone are now faced with the prospect of reduced utilization of these foreign-built vessels, many of which are fully amortized.

2. The American processing industry is now beginning to make the necessary investments to fully Americanize our fishery resources. Several new processing plants have been built in Alaska to process pollock into surimi and fillets. The U.S. flag factory trawler fleet continues to expand including the recent announcement of a large surimi factory trawler to be operational next year plus several other under serious consideration. U.S. flag at sea processing operations supported by U.S. harvesting vessels are growing and one large American shipbuilder recently announced plans to build and operate several large fish processing vessels in Alaska waters utilizing alaska pollock.

3. To counter this growing Americanization threat certain foreign fishing companies are now aggressively pursuing plans to maintain their control and pre-eminence in the fisheries off Alaska by forming majority owned "U.S. citizen" corporations for the purposes of acquiring U.S. flag harvesting vessels and/or re-flagging their existing factory vessels as U.S. processing vessels. Several foreign fishing companies have already taken such action. We expect others to follows suit in the near future.

True Americanization of our fishery resources will be abruptly halted and our hard-earned gains set back severely if this activity is not halted immediately. The American Fishing industry will have great difficulty competing with these lower cost, foreign processing vessels rolled over under the U.S. flag. Preventing this "Paper Americanization" of our fisheries now will go along way toward maintaining the present positive investiment climate which is fostering true Americanization of our fisheries as intended by the Magnuson Act (MFCMA).

RECOMMENDATIONS

With an understandable sense of urgency the undersigned request that legislation be immediately introduced to accomplish the following changes in U.S. law in support of continued, orderly Americanization of our fisheries:

1. Require that a foreign built vessel cannot be documented as a "vessel of the United States" for purposes of processing U.S. harvested fish in the territorial sea of fishery conservation zone of the U.S.;

2. Require that any U.S. documented vessel engaged in harvesting or processing fish in the U.S. territorial sea or fishery conservation zone be majority-owned and controlled by U.S. citizens;

3. Establish 24 September 1986 as the effective date for these regulatory changes.

Thank you for your immediate and serious consideration of this critical matter.

Alaska Draggers Assn, Trident Seafoods, Inc, Midwater Trawlers Assn, N. Pac Fishing Vessels Owners Assn, United Fishermans Mktg Assn, All Alaskan Seafoods, Petersburg Vessel Owners Ass'n, Alaska Factory Trawlers Assn, Tampa Shipyards Inc, SW Alaska Municipal Conference, Fishing Vessel Owners Assn, Deepsea Fishermen's Union, Concerned Crab Coalition, Highliners Assn.

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STATEMENT OF FRANK DROZAK, PRESIDENT, MARITIME TRADES DEPARTMENT, AFL-CIO

Mr. Chairman and Members of the Subcommittees: I am Frank Drozak, President of the Maritime Trades Department, AFL-CIO, representing 43 national and international unions composed of 8½ million workers employed in marine and related industries. I would like to thank you for the opportunity to share with you our views concerning a problem, which if permitted to remain unresolved, will jeopardize the full Americanization of the nation's valuable fishing resources within the Exclusive Economic Zone (EEZ) of the United States, specifically the Alaska-North Pacific bottom fish industry, as envisioned by the Magnuson Fishery Conservation and Management Act of 1976.

Briefly, the basic problem stems from a troublesome aspect in the nation's documentation laws which essentially fail to prohibit the transfer of foreign-owned fish processing vessels to the U.S. flag. The only restriction in current law is the prohibition of reflagged vessels as fish harvesting vessels. As we understand, this loophole in law, which incidentally does not require that a U.S. corporation be owned by U.S. citizens in whole or in part, permits a foreign-flag fish processing company to establish a corporate subsidiary with token U.S. management to document its foreign-flag processors under the laws of the United States. Consequently, foreign fish processing vessels are presented a unique capability—clearly denied other types of vessels—in reflagging potential, instantly enjoying an entitlement exclusively intended by the Magnuson Act for U.S. processors and harvesters—first priority in the U.S. allocation system for fishery resources.

For the record, the Maritime Trades Department, which counts among it membership affiliated organizations involved in both the fishing and shipbuilding industries, is opposed to the reflagging of foreign processing vessels for the primary purpose of enhancing their ability to garner a priority status for fish allocation under the Magnuson Act. This practice is detrimental to American fish processors who elected to build their vessels in U.S. shipyards. Although foreign-flag vessels, predominantly those from Japan and Korea dominate the processing of 90% of the Alaska-North Pacific bottomfish, American processors are steaming full speed ahead, investing millions of dollars in vessels for the lucrative fish processing industry in the area with the goal of transforming the domestic industry from a colony economy providing a valuable natural resource to one which produces a value-added product for export. However, the reflagging of foreign-flag vessels with lower or totally amortized capital costs, certainly precludes the continued economic viability of expansion into this trade by the American processor.

It is indeed ironic that, on the one hand, the Magnuson Act which was passed to enhance the attractiveness for investment in the full development of the fisheries within the EEZ by domestic processors and harvesters could, on the other hand, be compromised by a loophole in the nation's documentation laws which were expressly enacted to protect the American shipbuilding base. To the dismay of both American processors who build their vessels in American shipyards and American shipbuilders themselves, the nation's documentation law, in this instance, lends itself to an interpretation which demonstrably harms both sectors of American industry.

The potential for a massive reflagging cannot be ignored. As of March 30, 1987, according to information received from the National Marine Fisheries Service, there are over 300 foreign-flag vessels, categorized as foreign factory ships and foreign trawlers with processing equipment, which have applied for permit authorization to operate in the EEZ fisheries. Although it is unlikely, for a variety of reasons, that all of these vessels would seek a reflagged status, it is conceivable that a significant number of them would take advantage of the current documentation loophole, imposing a competitive disadvantage to the legitimate development interests of domestic processors. In addition, as reported, it is estimated that as many as 2,500 jobs,

mainly in fish processing and shore support industries could be affected by reflagging activities. Unless the problem is solved, foreign companies will have the wherewithal to claim the domestic preference and unfairly compete with the domestic industry at greatly reduced capital costs in the Alaska-North Pacific bottomfish trade, not only displacing many U.S. workers in the industry but also preventing the creation of thousands of new job opportunities for American workers on American processing vessels.

The ability of foreign-built and owned vessels to reflag will deny vitally needed construction orders to the nation's domestic shipyards. As you know, many private sector shipyards have closed, others are teetering on the brink of collapse, many vital repair facilities have been lost, and thousands of skilled workers face unemployment or at best underemployment. The depession in the American shipbuilding industry has contributed to the continued decline of allied industries throughout the nation. The steel, electronics, heavy machinery industries and equipment manufacturers have suffered as a result of the lack of work in American shipyards. Providing support for the domestic shipbuilding base with construction orders for processing vessels will help to reverse the loss of capability and capacity of domestic shipyards.

Because of the many variables involved and interests to consider, this problem will not be easily solved. Indicative of this is the fact that legislative initiatives introduced in both the House and Senate, H.R. 438, H.R. 1956, and S. 377, respectively, approach the problem differently, acknowledging the complexity of the situation. The MTD takes this opportunity to briefly comment on specific provisions of both the House and Senate proposals.

The MTD supports the American-build requirements for documentation of all vessels, including processing vessels, to be utilized in the fisheries under the Magnuson Act, as required by both H.R. 438 and H.R. 1956. Enactment of this provision would not only deter foreign-owned vessel reflaggings but would also impede the ability of American companies who purchase relatively inexpensive foreign-built hulls from unfairly competing with American companies who ordered construction of their fish processing vessels in American shipyards at greater capital costs. As intended by the Magnuson Act, the American-build requirement will bring the Americanization of the nation's fisheries closer to realization, in addition to providing potential employment opportunities for American workers in the fishing and marine related industries.

But the full Americanization of the fisheries within the Exclusive Economic Zone will not be realized until U.S.-built vessels plying the fisheries are totally manned by U.S. citizen personnel. Since American processing companies will enjoy the benefits of the priority allocation system in the nation's Exclusive Economic Zone fisheries, it is reasonable to expect that they employ U.S. citizen personnel to participate in the full development of these fisheries. Therefore, the Maritime Trades Department supports legislation which would require 100 percent U.S. citizen personnel for the entire crew complement, in all phases of U.S.-flag vessel operations, including harvesting and processing operations.

Certainly, the MTD recognizes that specialized skills may be required in certain aspects of fish processing vessel operations. Unfortunately, it appears that this expertise may be in short supply in the American workforce. Until U.S. citizen personnel can be trained to fill these select positions, the MTD suggests that Congress grant the Attorney General interim authority to temporarily waive the 100 percent citizenship requirement for a select number of positions on a case-by-case basis.

To continue on the subject of U.S. citizen personnel manning, I would like to bring to your attention another matter of concern to the MTD regarding a loophole in 46 U.S.C. 8103 (b) which would provide the wherewithal for domestc processing vessels to use foreign labor onboard, if the processing vessel departs or is based in a foreign port. In keeping with the spirit of full Americanization of the fisheries within the EEZ, the MTD recommends that clarifying language be added to 46 U.S.C. 8103 assuring implementation of 100% citizenship requirements for the entire crew of vessels engaged in the EEZ fisheries, irrespective of whether a fish processing vessel is departing from a United States port or is based in a foreign port. In addition, every effort should be made to maintain an all-American crew onboard, replacing vacancies when they occur with U.S. citizen personnel, even if the first port reached is a foreign port.

In respect to S. 377, the MTD looks favorably upon the provision which imposes a ten-year moratorium on the ability of foreign-built vessels to engage in fish processing activities under the U.S. flag. As noted, the recommendation differs from the House-introduced versions as to the manner in which to close the reflagging loophole. However, S. 377 would also be an acceptable approach in preventing foreign-

flag processing operators from gaining preference status in the U.S. fish allocation system. In addition, as previously mentioned, the MTD reaffirms its support of 100 percent citizen personnel manning for all personnel, marine and processing alike, aboard U.S.-flag processing vessels.

Mr. Chairman and Members of the Subcommittees, in conclusion, I would like again thank you for your interest in and consideration of this important issue which will impact the realization of the full Americanization of the nation's fisheries. I would like to further assure you that the Maritime Trades Department stands ready to work with you and the industry to affect an equitable solution for all parties concerned. Thank you.

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STATEMENT OF THE AMERICAN WATERWAYS SHIPYARD CONFERENCE

The American Waterways Shipyard Conference (AWSC) is comprised of a group of approximately 50 small and medium-sized shipyards that have traditionally been involved in construction, repair and conversion of vessels for the fishing industry, as well as for other industries, both in the United States and around the world.

The legislation under consideration, S. 377, has two central points. First, it prohibits the use of foreign-built vessels documented under the laws of the United States for fish processing. Second, it would require that all seamen on U.S. fish processing vessels be U.S. citizens.

With respect to the issue of manning, since AWSC members have no involvement in the operation of these vessels, AWSC is not in a position to comment on this particular aspect of the legislation.

The most important aspect of this legislation to AWSC members is the reflagging of vessels. As the U.S. fishing industry evolves to the point where U.S. interests are becoming more involved in the fish processing segment of the industry, foreign fish processing interests are being displaced. Permitting these displaced processing vessels to be reflagged would have a serious impact on the traditional balance between shipbuilding and ship operations in the U.S. fishing industry. AWSC members have been extremely competitive with shipyards around the world in the construction of vessels for the fishing industry. There is no other segment of the U.S. maritime industry where foreign-built and reflagged vessels are permitted to compete in strictly domestic markets. AWSC believes very strongly that the practice should be extended to the U.S. fish processing industry.

Another issue that has become of even more concern, which is not covered by S. 377, regards reconstruction of existing vessels for the U.S. fishing industry. A large number of the fishing/fish processing vessels that have been put in service in the last two years are converted surplus vessels from the offshore supply industry. This has proven to be a very cost effective way of obtaining vessels for this industry and, at the same time, has helped relieve the extreme problem in the offshore industry by removing surplus vessels from that industry. Until very recently, this reconstruction work had all been accomplished in U.S. shipyards. However, within the past few months, several of these conversion jobs have been undertaken by Norwegian shipyards. AWSC members were astounded that it could conceivably be cost effective to move these surplus supply vessels from the United States to Norway to do the conversion work. Based on AWSC's analysis and information, on an unsubsidized basis, the U.S. shipyards which have traditionally been involved in this work are very competitive with, if not cheaper than, yards that do the same work in Europe, particularly Scandinavia. This is especially true with the devaluation of the U.S. dollar and the strengthening of foreign currencies. In addition, the cost of conversion is increased by the cost of moving the vessels from the United States to shipyards in Europe and back, a cost which on a per vessel basis is estimated to be approximately 150,000 dollars.

When AWSC became aware of the fact that its members were losing this conversion work to foreign shipyards in Europe, AWSC investigated to determine how it could possibly be. The information that was developed indicates that the shipyards doing this work in Norway are offering significant subsidies, both direct subsidies for reconstruction work and subsidized financing. In fact, one vessel owner interested in doing conversion of a suppy boat to a fishing/fish processing vessel was approached by representatives of a Norwegian shipyard and offered a significant subsidy to do the work in their shipyard.

AWSC is currently reviewing this situation to determine whether this practice is permitted under current international trade regulation. If it is not, AWSC members will act appropriately. However, in any case, existing law relating to rebuilding of

U.S.-flag commercial vessels in the coastwise trade should be extended to U.S.-flag vessels in the domestic fishing indusry.

In summary, the American Waterways Shipyard Conference strongly supports this legislation insofar as it relates to a prohibition on the reflagging of vessels for fish processing purposes.

AWSC also believes that serious consideration should be given to restricting the conversion of vessels for fishing/fish processing vessels in foreign shipyards by applying to these vessels the same restrictions as set forth in the Second Proviso of 46 U.S.C. § 883.

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